













LECTURES ON PALEY;

OR,

THE PRINCIPLES

OF

MORALITY:

DESIGNED

FOR THE USE OF STUDENTS

IN THE

UNIVERSITY.

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MEMORANDUM

TO : [Illegible]

FROM : [Illegible]

SUBJECT : [Illegible]

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# THE PRINCIPLES

OF

## MORALITY.

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### PRELIMINARY CONSIDERATIONS.

(*Paley*, b. i. c. 1, 2, 3, 4.)

(*See RUTHERFORTH'S INSTITUTES*, c. 1.)

ARTICLE 1. There are five names given to *this* science :

1st. Morality.

2d. Moral Philosophy.

3d. Ethics.

4th. Casuistry.

5th. Natural Law.

DEFINITION. *Morality* is that science which teaches men :

1st. What they ought to do, and why they ought to do it.

2dly. How they may do it.

Or it is a system of rules which ought to determine the actions, practice, and conduct of voluntary agents; and also the mode of attaining them :

EXAMPLE. A writing master, in teaching writing, not only sets the copies, but also shows how to hold the pen and make the letters.

*Bacon*\* has further observed after *Aristotle*: *necesse est de virtute dicere, et quid sit, et ex quibus gignatur. Inutile enim fere fuerit, virtutem quidem nosse, acquirendæ autem ejus modos et vias ignorare: etc.*

(2.) Actions, according to *Locke*, are referred to three laws (*Lectures on Locke*, PAGE 132.):

1st. Divine Law.

2d. Civil Law.

3d. Law of Reputation.

*Morality* is necessary because these laws are deficient—

The imperfection is either in the rule or in the practice:

1st. The *Divine Law* is imperfect in the application and not in the rule:

Ex. In the Ten Commandments—and it is the province of *Morality* to enlarge on these Commandments.

2dly. *Civil Law* is imperfect, because it must omit many duties which are voluntary:

Ex. Gratitude; charity.

The Civil Law is also imperfect, because there are many duties which it cannot define:

Ex. In paying a debt twice, for a person by the Civil Law is not free from the debt, except he can show a receipt.

3dly. The *Law of Reputation* is imperfect, because it extends only to equals.

## HUMAN NATURE.

(3.) Since *Morality* is designed for the benefit of mankind, the knowledge of it must arise from the knowledge of ourselves; and since it is impossible to trace this

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\* De Augment. l. vii. c. 3.

science to its first principles without considering the nature of the human mind, it follows that the groundwork and foundation of it is the knowledge of *human nature*.

(4.) DEF. *Man* is a compound and mixture of flesh as well as spirit, and the soul during its abode in the body does all things by the mediation of the senses; consequently, man has been incompletely defined a rational animal—he is rather, in *Wollaston's* words, *sensitivo-rational*: guided both by reason and sense, but more by sense (*Locke*, PAGE 9.).

COROLLARY. 1. Hence man has a larger mixture of the sensitive than the rational—more of the brute than the angel in his composition.

COR. 2. Hence, because the one can do nothing without the other, he must regard both parts of his constitution.

(5.) Most errors in human life, whether private or public, originate in neglecting our twofold constitution.

In Civil Governments this cause of errors is most apparent (*Locke*, PAGE 195.):

EX. A *Whig* will make mankind angels; a *Tory*, perhaps, brutes.

Extremes meet: but the poet has rightly said:

*Est modus in rebus.....*

Horat.

In *theory*; the *Tory's* foundation preponderates: the bulk of mankind is more bestial than angelic—and all have a considerable portion of the brute in their composition: in *practice*; all history to this time verifies the same conclusion. At the instant present, there is, in the world, a different appearance: but the laws of nature are irreversible—the irregularities are not permanent, they come to a limit and then go back again. Hence, the present appearance will follow the same rule as in time past,

i. e. when the impressed force is removed it will restore itself to its natural state.

Since the qualities of sense vary as the physical strength of the body, the excess is greatest in the male :

Ex. The passions of men are more fierce and reckless than those of women.

### THE MORAL SENSE.

(*Paley*, b. i. c. 5.)

(6.) DEF. *Moral approbation* is the approbation of characters as being excellent or just; and the principle of moral approbation, (which is called a *moral sense*,) is a quality which approves or disapproves any particular action :

Ex. Compassion; forgiveness of injuries.

There have been some questions started concerning this principle :

*For its existence :*

Those who contend for a moral sense bring these two arguments :

1st. That it is universal.

2d. We have no interest in this approbation, as the action which we approve may have been performed in a distant country, and in a different age.

*Against its existence :*

There are likewise two arguments brought against this principle :

1st. It is not universal, for in some countries it was allowable for children to put their parents to death after a certain age.

2d. The general approbation of particular actions where we have no interest may be accounted for, without the supposition of a moral sense :

α. We may approve of them from habit.

β. We may have seen that those actions have been beneficial to us at some time.

COR. But whatsoever way the question be determined, it alters not, or at least ought not to alter the intrinsic merit of virtue.

(7.) SCHOLIUM. The great question amongst moralists is, whether the *approbation of virtue* be natural and instinctive, or acquired by fashion, habit, reasoning, or any other mode of obtaining. The question in its present state is absurd, as it only asks whether the approbation of what is approved is natural (*Locke*, PAGE 15.). The question really means whether the approbation of any *particular* virtue is natural:

Ex. As when we read of a son murdering his father, we cannot help disapproving and condemning the action and abhorring the perpetrator. Nor can we help, on the contrary, expressing our sentiments of approbation, when we read of any act of singular generosity.

Now the question rests upon this: Whether a savage taken from the woods would feel this approbation of virtue and abhorrence of vice. If he does, it is no doubt instinctive; if not, it is the effect of example, reasoning, &c. But as it would be impossible, if indeed such a savage were procured, to make him understand the question at first, we must confine ourselves to a candid examination of the arguments *pro* and *con* a moral sense.

## HUMAN HAPPINESS.

(*Paley*, b. i. c. 6.)

(8.) DEF. *Happiness* is used in two senses:

1st. Absolute happiness.

2d. Relative happiness.

*Absolute happiness* is the absolute possession of every good.

*Relative happiness* is where the amount of pleasure is greater than that of pain.

(9.) It will be necessary to consider in what *human happiness* consists :

1st. It does not consist in the enjoyment of sensual pleasures, because they are soon over; and also because they lose their relish by repetition.

2dly. It does not consist in absence of bodily labour or pain :

Ex. *Monks and Fellows of Colleges*, it is said, are generally peevish; and tradesmen retiring from business do not know how to spend their time.

COR. Hence pain is a relief to hypochondriasis, by diverting the attention from imaginary evils.

3dly. It does not consist in greatness; for the advantage of greatness is only a superiority over our equals, which ceases as soon as we overcome them.

(10.) Now, human happiness consists :

1st. In the enjoyment of the social affections.

2dly. In the hope and pursuit of pleasures.

3dly. In health of body,—in which are included health or peace of mind and spirits, as these depend more on the management and constitution of the body than is generally imagined.

There are two advantages which arise from happiness consisting in these things :

1st. It is equally distributed amongst all men.

2d. Bad men have no advantage over the virtuous.

(11.) REMARK. The only pleasure on earth which never cloy, is the unsought consciousness of acting rightly.



## OBSERVATIONS ON HUMAN HAPPINESS.

(12.) OBS. 1. DEF. *Locke* has fixed on the term *satisfaction*, as more extensive, to denote what a man feels when any thing pleases him.

(13.) OBS. 2. DEF. *Happiness* is the aggregate, or rather the preponderation of satisfactions (ART. 8.).

COR. 1. Hence it is always, in part at least, future.

COR. 2. Hence, though the ultimate end (*Locke*, PAGE 82.), yet, from being fainter as more remote, it is rarely the ultimate view of action.

COR. 3. Hence the violations of metaphysical truth—the preference of the present *minimum* over the absent or future *maximum*.

(14.) OBS. 3. There can be no knowledge of satisfaction before experience of uneasiness :

EX. From the appellation of “the tree of the knowledge of good and evil,” \* in the Old Testament, it may be implied, that *Adam* did not know what good was before he had experience of evil.

(15.) OBS. 4. Uneasiness is in general introductory and subservient to satisfaction :

EX. We learn wisdom from the disappointments we have suffered, and we learn to feel for others from seeing the distresses to which they are exposed.

COR. 1. Hence, “blessed are they that mourn, for they shall be comforted.” †

COR. 2. Hence we may look upon uneasiness as the *purchase-money* of satisfaction, and as so much necessary deduction from the latter.

\* Gen. ii. 17.

† Matt. v. 4. John xvi. 33. Acts xiv. 22. Rev. vii. 14.

(16.) OBS. 5. The means of happiness, i. e. the vehicles or antecedents of satisfactions, are out of and beyond ourselves.

COR. Hence the view of Self is not in the least necessary to our greatest happiness.

(17.) OBS. 6. The mind vacant, or unengaged, turns upon and preys upon itself:

EX. 1. As in a commonwealth, where there is no public enemy, there are, likely, civil wars, and they rage upon themselves.

EX. 2. *Achilles in Homer:*

———— αλλα φθινυθεσκε φιλον κηρ,  
Αυθι μεων, ποθεεσκε δ' αυτην τε πτολεμον τε.

*Il. α. 491, 2.*

*Again*, idleness is called the devil's cushion, his pillow and chief reposal. It is the cause from which the vices of human life for the most part deduce their origin and continuance:

EX. "*Sicut in stagno generantur vermes, sic in otiosi malæ cogitationes,*"\*—the soul is contaminated.

(18.) OBS. 7. Happiness consists in perpetual engagement:

EX. On the instant, and so long as the thoughts are employed in any thing just sufficient to engage our attention, the mind is satisfied.

COR. 1. Hence it will be expedient to have some engagement for every hour of the day, and every season of the year, and every circumstance amongst those which ordinarily surround us, so that we may have perpetual engagement.

COR. 2. Hence from being more fertile of engagement, happiness depends not so much on affairs of moment as

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\* Seneca.

on the agreeable or disagreeable disposition of the trifles which daily occur.

COR. 3. Hence from the like cause, viz. from their excess and predominance, the intense pleasures are not so valuable as the gentler satisfactions.

COR. 4. Hence, *à fortiori*, *Christianity* will give the *maximum* of happiness (*Locke*, PAGE 194.).

Employment and engagement are distinct—*engagement* is employment on a prospect of some satisfaction; whereas *employment* singly, may be otherwise,—the mind may be inattentive to the present object—be doing one thing and at the same time either thinking of another, or not thinking at all—and miserable.

(19.) OBS. 8. Happiness varies as the invisibility of Self in the objects of engagement :

Ex. The happiness of brute creatures—also that of human infancy and childhood.

(20.) OBS. 9. The secret of human happiness lies in perpetual engagement (ART. 18.) in objects wherein the thought of Self is annihilated \* (ART. 16.).

(21.) OBS. 10. An action is not virtuous, unless the idea of Self be altogether discarded from the thoughts :

Ex. Thus to entitle an action to the epithet *benevolent*, it must proceed from the sole view of good will, without thought of any thing beyond the benefit of the party who is the subject of it.

(22.) OBS. 11. The unseasonable intervention of the idea of Self is the worm which lies at the root of all happiness.

COR. Hence selfishness and narrow-mindedness give the *minimum*, as disinterestedness and benevolence the *maximum* of happiness.

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\* Hartley—Prop. lxvii.

(23.) SCHOL. *Nulla omnibus sæculis reperta est vel philosophia, vel secta, vel religio, vel lex aut disciplina, quæ in tantum communionis bonum exaltavit, bonum vero individuale depressit, quantum sancta fides Christiana* \*.

COR. 1. *Unde liquido pateat unum eundemque Deum fuisse, qui creaturis leges illas naturæ, hominibus vero legem Christianam dedisset* \*.

COR. 2. Hence "it is more blessed to give, than to receive." †

## VIRTUE.

(*Paley, b. i. c. 7.*)

(24.) *Morality* is divided into two parts :

1st. To determine the virtues.

2d. To determine the mode of attaining them.

The chief end of *Morality* is the subjugation of the passions—the spirit's ascendancy over the flesh, i. e. the entire dominion of the rational over the sensitive faculties :

EX. *Christ* is both the example and the medium.

COR. "I see another law in my members, warring against the law of my mind (i. e. *passions warring against my conscience*), and bringing me into captivity to the law of sin, which is in my members. O wretched man that I am, who shall deliver me from the body of this death (i. e. *from this deadly body*)! I thank God (i. e. *the grace or favour of God*), through Jesus Christ our Lord." ‡

## OF THE NATURE OF VIRTUE.

(25.) DEF. *Human virtue* is the doing good to mankind.

Different persons do this from different motives :

\* Bacon—De Augment. l. vii. c. 1.

† Acts xx. 35.

‡ Rom. vii. 23—25.

EX. A *Christian* does it in obedience to the Will of God and for the sake of eternal happiness; an *Atheist* from its use to society.

COR. 1. Since an action takes its quality not from the thing done, but from the thing intended, it follows that we cannot be said to do the Will of God unless when we act on that *intention*:

EX. Thus, when we choose one out of several actions in our power, as being at the time most agreeable to the Will of God.

COR. 2. Hence *Christian* virtue is obedience to the Will of God.

COR. 3. Hence, "whether ye eat or drink, or whatsoever ye do, do all to the glory of God."\*

(26.) The ancient division of virtue was into the four cardinal virtues: Prudence, Fortitude, Temperance and Benevolence, which includes Justice:

*Benevolence* proposes good ends.

*Prudence* pursues them.

*Fortitude* overcomes obstacles.

*Temperance* restrains the passions, which would otherwise be hindrances.

But amongst *Christians*, the term *virtue* is translated into *duty*; hence the later divisions are:

1st. Duty to God, which consists in devotion.

2dly. Duty to ourselves, which consists in decency.

3dly. Duty to our neighbour, which consists in justice.

These divisions are more general than the others.

## OF THE ACQUIREMENT OF VIRTUE.

(27.) DEF. *Conviction* is the conclusion of reason while the premises are actually present to the mind: *persuasion*, while they are not (*Locke*, PAGE 175.). The former is the

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\* 1 Cor. x, 31.

beginning, and the latter, the continuation of assent. By repetition, conviction is translated into persuasion, and is thereby akin to habit. Though persuasion be generated by conviction, it is often by other causes, but then it is not so fixed nor lasting.

DEF. *Habits* are trains of ideas fixed by repetition.

To enumerate the various means of acquiring the knowledge and practice of all the virtues in *Morality* would be impracticable, but the following principles are necessary:

1st. Since satisfaction is the motive or ultimate end of human action (*Locke*, PAGE 82.), a person's *first* step in *Morality* must be a thorough conviction of the judgment, that doing the Will of God intentionally, is acting most for his own happiness.

2dly. His *next* step must be a like conviction, that God the Creator has so connected *Morality* with human happiness, that the latter is the natural consequence of the former.

3dly. There must *then* be a conviction that future happiness is alike valuable with the present—and must one day become present.

4thly. *Lastly*, by dint of repetition, there must be a translation of these convictions into persuasions, i. e. *habits of thinking*, i. e. that though satisfaction be the ultimate end, yet virtue or the Will of God shall be the ultimate view of action (ART. 13.)—hence also, the idea of Self will be altogether discarded from the thoughts (ART. 21.).

APPLICATION. Hence will follow *habits of acting*, (*Locke*, PAGE 56,) i. e. the tenour of a person's life will be *habitually virtuous*, i. e. without having either satisfaction—the ultimate end, or the Will of God—the ultimate view of action, in his thoughts.

COR. Hence the apophthegm of *Christianity*: “the just shall live by faith.”\*

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\* Rom. i. 17.

(28.) SCHOL. *Religion*, with the generality of mankind, where there is some sense of it, acts more as a bridle than a spur—men being solicitous to escape hell rather than to gain heaven; nor perhaps would ever think of the latter if there were a third place whither they might go to be secure from the former. But such a principle is a violation of metaphysical truth:

For, happiness is the only valuable end of existence, and Religion or *Morality* is but the science of happiness—leading us to the greater good or balance of satisfactions. Happiness and the Will of God are coincident, wherefore no man ever disobeyed His will merely by pursuing his own happiness, but by neglecting those *more* unhappy consequences which such pursuit will engender. The weak feature of humanity is, the preference of present things of less over that of absent things of greater value. Hence, a man who calculates his happiness rationally and resolutely will, from the principle of self-interest alone, i. e. from inclination—from being most for his own happiness, make Religion or *Morality* the ultimate view of action.—God the Creator having so established the order of nature and the chains of connexion between the present and the future, that happiness is, *at the long run*, the certain consequence of Religion or *Morality*.

COR. “In thy presence is fulness of joy; at thy right hand there are pleasures for evermore.”\*

(29.) Men’s actions are, and ought to be governed by habit rather than reason:

1st. That they are, is evident:

Ex. A sot is driven to his tankard, or bottle, more from habit than thirst.

2dly. That they ought, may be evinced by two reasons:

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\* Ps. xvi. 11.

α. Because there is not time for reason.

β. He that reasons biassed by temptation, always errs.

COR. 1. Hence many things are to be done merely for the sake of establishing good habits :

EX. Attending stated seasons of worship.

COR. 2. The use of *Morality* is to promote good and to repress bad habits :

The *habit of advertency* (*Locke*, PAGE 58.), or as commonly expressed, that of *having your senses always about you*, is the habit of invariably and instantly choosing the *summum bonum*, or the greatest good. Since "there is none good but one, that is God"\* (*Locke*, PAGE 218.), it follows, that His will and the greatest good are coincident. Hence the principal habit best deserving our cultivation is this habit of consciousness, or advertency—or of acting as well in great matters as in small, on the *intention* "of doing all to the glory of God" (ART. 25.).

*Again* ; to repress a bad habit, we must contend with it in its infancy ; else it will be hard work. We may do this, either by a resolute restraint, or what is better, by occupying our thoughts another way,

(30.) SCHOL. Vice consists in the habitual commission of any one flagrant offence ; but virtue must by no means be considered as consisting in one good action only, but such a compliance with the rules of habit as to make every action good.

COR. 1. Hence, "every one who lives in the habitual practice of any voluntary sin, cuts himself off from *Christianity*,"† and *vice versâ*.

COR. 2. Hence a state of mere unprofitableness is excluded : the human mind will not rest *in vacuo* ; as a man eschews evil, so he does good ‡.

\* Matt. xix. 17.

† Addison.

‡ 1 Pet. iii. 11.



## SECTION I.

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### MORAL OBLIGATIONS.

#### OBLIGATION AND RIGHT.

(*Paley*, b. ii. c. 1, 2, 3.)

(*See* RUTHERFORTH'S INSTITUTES, c. 2.)

(31.) DEF. A man is said to be *obliged* when urged by a violent motive resulting from the command of another:

The motive must be violent; for if he receive a gratuity, he is not obliged, but induced or persuaded. But if he receive a command from a magistrate, or parent, to do any thing, then he would say he was obliged.

COR. A man cannot be obliged except there be something to be gained or lost, else there could be no violent motive; but he is not *always* obliged when something may be gained or lost:

Ex. A man needs not marry a wife for the sake of fortune, though a man is obliged to pay his debts in obedience to the Will of God.

Thus the motive may be violent, yet if it does not result from any command, there is no obligation.

(32.) Private future happiness is the *motive* to virtue, and the Will of God the *rule* by which we ought to act (ART. 25.).

COR. Hence it follows, there is no obligation to virtue supposing there is no *future* state. | 8

(33.) SCHOL. Since God is the one, only, ultimate cause of all things, His will is at last the point to which every thing must come. Hence His will is the ultimatum of all virtue (*Locke*, PAGE 59.).

*Again* ; since a virtuous action must carry nothing of Self in view (ART. 21.), the conclusion is the same. This principle is called *self-oblivion*, and by *Hartley* and his followers, *self-annihilation*.

COR. 1. Hence "it is God who worketh in us, both to will and to do of his good pleasure." \*

COR. 2. Hence *Morality* and *Revelation* are coincident (ART. 24.), since they both concur in the pursuit of that one point—the Will of God.

### THE WILL OF GOD.

(*Paley*, b. ii. c. 4, 5, 6, 7, 8.)

(34.) It is the business of *Morality* † to investigate the *Will of God* from the light of nature; and this is found by two methods:

1st. By considering whether an action be agreeable to the maxims of justice evident to our understanding.

2d. By considering the good consequences of the action to society.

(35.) These two methods are not contrary, but like algebra and geometry, concur in forming the same conclusions; but one is sometimes more conveniently applied than another.

(36.) The grounds of the first method are, that it would

\* Phil. ii. 13. Matt. vii. 21. John, iv. 34.

† Of the writers on *Morality*, ABRAHAM TUCKER is the *nulli secundus*. *Paley* confesses his great obligations to *Tucker's* writings, part of which were published by himself, and the remainder since his death, under the title of the "Light of Nature pursued, by Edward Search, Esq." *Paley*—Pref. Mor. Phil. (*Locke*, PAGE 4.).

be inconsistent with the benevolence of the Deity, that we possessed such maxims unless they instructed us right.

The grounds of the second are, since there is such a provision made for our happiness in the world by God the Creator, it is consistent with His will that happiness be promoted.

(37.) There are two cautions to be observed in the application of these methods :

1st. Not to mistake local prejudices for self-evident maxims :

Ex. *Aristotle* thought that one part of mankind ought to serve the other.

2d. To consider the action in all its consequences :

The *consequences* of actions are twofold :

1st. Particular.

2d. General.

*Particular* are such which immediately result from the action :

Ex. Relief of the person is the particular consequence of charity.

*General* are such as result from the violation of some general and necessary rule :

Ex. No person shall be put to death without the authority of judge and jury.

(38.) Utility ought not to be our motive without considering both the particular and general consequences of actions :

Ex. Bribing a jury to acquit an innocent person.

COR. 1. Actions of the same kind must be generally allowed or generally forbidden.

COR. 2. We ought to estimate the consequences of actions by considering what would be the case, if such actions were generally permitted.

COR. 3. Since the qualities of actions depend entirely on their effects, *Morality* is a science of calculation.

(39.) SCHOL. 1. Ancient moralists, viz. *Plato, Aristotle, Cicero, Seneca, &c.*, were mistaken in supposing bad means to be used to promote good ends; or it did not signify what the end was, if the means were good. To estimate actions without looking forward to their consequences, appeared to them absurd; and on the other hand, regarding their consequences, led them to approve actions the most detestable. Hence, in order to steer clear of this difficulty, they found out the *honestum*, or το πρεπον to refer to, when the consequences would not serve them.

COR. Hence we may understand the apophthegm in *Morality: do not evil that good may come*, i. e. do not violate a general rule for a particular consequence.

SCHOL. 2. *Query.* It is by some asked, whether *Morality* is capable of demonstration?

*Answer.* No; because all morality is ultimately founded on the Will of God (ART. 33.). And God is a free agent; and the will of no free agent can be pre-demonstrated (*Locke, PAGE 181.*).

## OF RIGHT.

(*Paley, b. ii. c. 9, 10.*)

(40.) DEF. *Right* is the being consistent with some rule.

(41.) DEF. A *Law* is a rule of action prescribed by authority.

(42.) There are two kinds of right:

1st. Legal.

2d. Moral.

The 1st is the being consistent with the Law.

The 2d is the being consistent with the Will of God.

The *2d* is applied as a quality to men or to actions.— When applied to *men* it is a *substantive*; when to *actions*, it is an *adjective*.

This quality when referred to *men* is divided into three parts:

1st. Natural and adventitious.

2d. Alienable and unalienable.

3d. Perfect and imperfect.

(43.) *Natural right* is that which a man would have had, if there had been no society; *adventitious* is that acquired by society.

It is consistent with the Will of God, that there should be several rights in a state of society, which there are not in a state of nature:

Ex. Exclusive property.

(44.) *Alienable rights* are such as may be transferred to others; *unalienable*, such as cannot:

Ex. Exclusive property is an alienable, and personal servitude an unalienable right.

(45.) A *perfect right* is that which may be maintained by force; an *imperfect*, that which cannot:

Ex. Right of life, property, &c., are perfect rights; right of beggars to relief are imperfect ones: but it is consistent with the Will of God that they should be relieved, though they cannot assert it by force.

(46.) There are two precepts of right:

1st. Positive.

2d. Negative.

*Negative* is stronger than positive, because it infers a *necessary obligation*; and *positive* does not:

Ex. The Fifth Commandment is a positive, and the Five last are negative precepts.

COR. 1. Hence \* *obligations* are also perfect and imperfect.

COR. 2. Hence *Morality* finds its principal exercise amongst the *imperfect obligations*.

(47.) SCHOL. There is a difficulty in determining between a *perfect* and an *imperfect* obligation:

EX. If one man give £100 to a charity, another £50, whether or no the one is a perfect obligation and the other not.

A line may be conceived to be drawn, and all the actions above it to deserve rewards, but in different degrees; and all under, punishments.

## THE GENERAL RIGHTS OF MANKIND.

(*Paley*, b. ii. c. 11.)

(See RUTHERFORTH'S INSTITUTES, c. 5.)

(48.) DEF. *General* or *natural right* is that to which every person has an equal claim:

(49.) 1st. The *first* general right is fruits of the earth, from the desire and want of nourishment, and the care and provision God has made for it.

(50.) 2dly. The *second*, our right to animal food, which we defend:

1st. By analogy, from the preying of animals on each other.

2dly. From the danger of their numbers increasing.

3dly. From the express declaration of God in the Old Testament †—which is the most satisfactory reason (ART. 33. *Cor.* 2.).

Some people will say, we have a right to them from the care we take of them: but this, as we only preserve them

➤ Rutherford—\* † † † † § 5.

† Gen. ix. 3.

for our own use, cannot with reason be alleged;—and besides, they would perhaps rather choose a life of liberty and seek food for themselves, than feed on that which is provided for them.

The *violations* of these two kinds of rights are such as do not include any of the above mentioned reasons:

1st. Laws on game.

2dly. Inclosures of commons.

3dly. Fisheries.

4thly. Monopolizing the ocean.

5thly. Wasting or misapplying the produce of the earth:

Ex. 1. Thus, the *Dutch* burning a great quantity of spice to increase the price, was a violation of the general rights of men.

Ex. 2. Boiling down flesh to make pungent sauces.

(51.) 3dly. The *third* general right of man is that of extreme necessity, which is the right of using others' property, when we should otherwise perish:

Ex. Throwing goods overboard, when the ship was in danger of sinking.

This right is made out by a comparison of the consequences.

## TAXATION.

(*Paley*, b. vi. c. 11.)

(52.) DEF. *Public revenue* is that part of the nation's wealth allotted for purposes of state.

There are two ways of raising this revenue:

1st. By demesnes—which are forests and crown lands.

2d. By taxation—which is divided into four parts:

1st. Capitation or poll.

2d. Assessment.

3d. Customs.

4th. Excise.

In the *1st* and *2d* the person or property of the consumer is taxed.

In the *3d* and *4th* the commodity in the hands of the tradesman is taxed, but the burden is increased on the consumer, because the tradesman paying the duty on the reception of the goods, must add the interest of his money; but it is less felt, being confounded with the price.

The *1st* tax falls heavy upon the poor, since they pay equally with their superiors.

The *2d* is more equal, as it is imposed on the value of goods, &c. This is the best tax for landed estates, but it is improper in merchandize, as it lets improper persons into an insight of particular trades.

(53.) There are some rules to be observed in imposing taxes:

1st. To seek out some object of the measure of people's circumstances.

2dly. To take care this be notorious.

3dly. Not to tax luxuries too high for two reasons:

$\alpha$ : Because the consumption would be less.

$\beta$ . There would be a greater temptation to smuggle.

(54.) Taxes were first imposed in *Egypt*, whence they were conveyed into *Greece*, which was universally taxed, to oppose the expedition of *Xerxes*.

(55.) The first general tax of the *Roman* world was under *Augustus*.



## COMMERCE.

(*Paley*, b. vi. c. 11.)

(56.) DEF. *Commerce* is of two kinds :

1st. Internal.

2d. Foreign.

*Internal* is the exchange of commodities for their equivalent, between subjects of the same state.

*Foreign*, between subjects of different states.

The *general* advantage of foreign commerce is exchanging things they can spare for those they want.

(57.) The disadvantages of commerce are :

1st. Increasing luxury.

2dly. Extending foreign connexions. Of this disadvantage, *India* is at present an instance (*Locke*, PAGE 53.).

3dly. Collecting men into large towns:—for by this, insurrections and tumults are raised; and lands which lie at a distance, are left uncultivated.

But these disadvantages are balanced by the following advantages :

1st. It promotes liberty and wealth to the subject, for wealth follows industry and not abilities.

2dly. It promotes arts and civilization.

3dly. Increase of naval strength.

Each of these branches is to be estimated by its particular use, distribution and employment of hands.

(58.) The *particular* advantages of foreign commerce are :

1st. Exportation of worked goods for goods to be worked.

2dly. Exportation of worked goods for money.

3dly. Exportation of raw materials for money.

4thly. Exportation of raw materials for worked goods : but this of great advantage because fewest hands are employed.

The advantages are divided into three parts :

1st. Advantage of the producer.

2d. Advantage of the consumer.

3d. Advantage of the state.

The advantage of the *producer* is vending superfluities ; of the *consumer*, buying necessities ; of the *state*, increasing the wealth of individuals.

(59.) In the commerce between two nations, there are two things to be considered :

1st. Balance of value, which is the difference of the real value of the goods exchanged.

2d. Balance of price, which is the money that remains due from one nation to another.

Those who have the balance of price in their favour, at first sight, appear to have the advantage, but the fact is otherwise.—For the commodity may be such as may be improved, as lands and mines, &c. ; and those who have the balance in price, *only* get the equivalent of that commodity in specie.

(60.) SCHOL. The *advantages* of commerce are greater than the disadvantages :

Ex. The *German* and *Italian* states shook off the feudal system by commerce.

## OF RELIGIOUS ESTABLISHMENTS.

(*Paley*, b. vi. c. 10.)

(61.) DEF. *Religion* is the sentiment of the mind relating to the Deity. It is necessary on this account, that

there should be some provision for public worship and the study and preservation of religion :

1st. That men's lives may be influenced by example, and that they may be instructed in their duty.

2dly. That they may admire and imitate the Attributes of the Deity.

3dly. That they may be convinced of future rewards and punishments.

The best provision for public worship is an established church, which is a society of men agreeing in the same faith and doctrines.

(62.) It is necessary that some public acknowledgment of their faith be required of those who take an active part in public instruction :

It is necessary to prevent disputes between each teacher and his congregation.

This acknowledgment is ratified in the Church of *England*, by subscription to its Thirty-nine Articles.

Those who are of opinion as *Powell* was, that the interests of the state and religion are connected, contend that as *Christ* has specified no particular form of worship, the form of worship ought to be conformable to the mode of government, viz. : *episcopacy* in monarchy and *presbytery* in republics.

(63.) The external form and apparatus of the Church are settled by convenience. Bells and organs are of themselves innocent and of little consequence.

*Quakers* do not allow tithes, and reckon them a persecution, arguing as our Saviour freely delivered his doctrine to them so they ought in their turn freely to preach it in their congregations—but they ought to consider, that if the preacher receive nothing, he must either starve or be obliged to labour, which would be an impediment to his

office: and besides *St. Paul* \* says: "they who minister about holy things, live of the things of the temple."

(64.) The only improvements which appear to be wanting are :

1st. To make residence a condition of the acceptance of a living.

2dly. That the stipends come from corn-rents instead of tithes.

(65.) SCHOL. The 6 & 7 W. IV. c. 71. of the *English* law, provides for the conversion of all the uncommuted tithes in *England* and *Wales* into a corn-rent-charge.

## OF TOLERATION.

(*Paley*, b. vi. c. 10.)

(66.) It is a question whether *toleration* ought to be allowed or not? It has certainly both its advantages and disadvantages :

The advantages are :

1st. Its tendency to remove errors in faith and doctrine.

2dly. It prevents hypocrisy, because many persons would conform for the sake of advantage.

3dly. It promotes free enquiries.

4thly. It promotes emulation among the teachers of different sects, and the societies of different sects are encouraged to morality.

The disadvantages are these :

1st. It enables a man to endanger the state, by requiring no test.

2dly. A person may be permitted to reside who may subvert the government.

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\* 1 Cor. ix. 13.

3dly. It confers places of state on aliens.

There is no method of hindering this but to make them conform to the same general rule :

Ex. Those who formerly entered into any office were obliged by the *English* law, to take the Sacrament as the Established Church directs.

(67.) Religious divisions are ecclesiastical districts of parishes, and these are necessary :

1st. That the care of each teacher may be distinct.

2dly. That the claim of each may be more easily ascertained.

## SECTION II.

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DUTIES TO OUR NEIGHBOUR;

*or,*

RELATIVE DUTIES.

*(Determinate.)*

OF PROPERTY.

*(Paley, b. iii. pt. 1. c. 1.)*

*(See RUTHERFORTH'S INSTITUTES, c. 3.)*

(68.) DEF. *Property* is a permanent and exclusive right to the substance as well as the use of things. The word *property* is often applied to the subjects of it, though it is only the exclusive right:

Ex. Estates; cattle, &c.

Property is the principal subject of the *relative duties* (determinate).

THE HISTORY OF PROPERTY.

*(Paley, b. iii. pt. 1. c. 3.)*

(69.) If we trace the *progress of property*, we shall find that nature prompted mankind to make it as follows:

1st. The fruits of the earth.

2dly. Wild and tame animals.

3dly. Tents and houses.

4thly. Tools and instruments to catch and prepare food.

5thly. Weapons of defence.

6thly. Wells.

7thly and lastly. Lands.

The first exclusive right to lands which we read of\*, was in *Egypt*. Here in the time of that memorable famine, we find that the lands were alienated to the crown, and the owners only received a certain moiety out of it.

*Cæsar*, who has given the earliest account of *Britain*, mentions nothing of *this* property subsisting amongst its inhabitants.

## IN WHAT THE RIGHT OF PROPERTY IS FOUNDED.

(*Paley*, b. iii. pt. 1. c. 4.)

(70.) The method of *acquiring property* is:

1st. By the sufferance of others; from a person or his ancestors having been in possession a long time without being molested.

2dly. By mixing their labour—this is *Locke's* opinion:

Ex. A person says I have cultivated a piece of land which was before useless, therefore I have a right to it.

3dly. The inconvenience of waiting for general consent.

Ex. Another says, as the earth was designed for all mankind in general, so a part for each, I therefore have

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\* Gen. xlvii. 20. 26.

fixed upon this as my property without asking any one's consent, knowing it would be an impossibility to get the consent of every one.

The 1st method is insufficient because it cannot bind others; for they only possess it through the sufferance or ignorance of the owners, therefore if the future owner, having more knowledge of it, should not grant the same sufferance, their claim must certainly cease.

The 2d is insufficient because it requires more labour than is generally applied.

The 3d is insufficient because it only extends to necessities; for according to the design of nature he has no claim to any more.

A general objection to all the *three* methods is, they would be of no advantage to support our present right; for others by the same plea might deprive ourselves or our heirs of them.

(71.) The *only just foundation of right* is the Law of the Land in which we live. And since property cannot be established but by law, it is consistent with the Will of God, that we enjoy what this law allows us.

COR. 1. Hence a man's right does not depend on original acquisitions or subsequent derivations:

EX. Thus if the 1st man gained it justly, and the 2d lost it, the 3d would have no right to it, if he gained it with injustice.

COR. 2. Nor does it depend on the expediency of the law which gave it:

EX. There is a customary tenure existing at this day in the county of *Kent* only, called *gavelkind*, by which all the sons inherit equally.

COR. 3. The intention and not the letter of the law ought to be regarded in adjusting the rights of men; else there will be often great injustice.



## OF THE MODES OF THE ACQUISITION OF PROPERTY.

(See RUTHERFORTH'S INSTITUTES, c. 8.)

(72.) DEF. *Bonâ fide possession*, which is the possession of any thing, on a presumption of right, is by three modes :

(73.) MODE 1. Prescription implies a claim to any thing founded on the continual possession, during a time prescribed by law.

When any thing is acquired by *prescription* :

1st. It ought to be founded on a just right.

2dly. It ought to be possessed without molestation for a certain time :

Ex. If a person were to possess a house for twenty years without molestation, he has a real claim, if the person who had a claim before be not ignorant of the circumstance.

Otherwise the claim is unjust :

1st. When it is injuriously obtained at first.

2dly. When fear or ignorance deter the right owner :

Ex. A rich man may possess a house to which a poor man has a better claim, though he dare not assert his claim, owing to his inferiority in fortune; or perhaps he may be so ignorant, as not to know his right.

In the *English* law, prescription is twofold :

1st. It is that, in which there is nothing in the memory of man, or on record to the contrary.

2d. It is that, in which there is something—and when no amends have been made :

Ex. If a person possess an estate for sixty years, a bond twenty-one, and money seven years, without the former possessor claiming it, it becomes the absolute property of the present possessor by prescription; except

Church Lands, which may be recovered at any time by the *nullum tempus* Act.

(74.) MODE 2. A *bonâ fide* possessor may obtain a thing from a wrongful man, in which case it is his duty to restore it, whether obtained with or without an equivalent :

α. When without, from natural justice.

β. When with, from the intention of the law.

The damages ought not to be made good, except in money or bank bills, where the value has passed through his hands.

(75.) MODE 3. By finding those things which never had, or those things which ceased to have an owner.

DEF. When those things are found which *never had an owner*, it is called *occupancy*.

DEF. Those things which *cease to have an owner* may be divided into five :

1st. Treasure in the ground.

2d. Treasure-trove, i. e. treasure hidden in the ground.

3d. Stray cattle.

4th. Waifs, i. e. whatever a thief drops in his flight.

5th. Wrecks, or the remains of ships cast away.

*Lost goods* by the *English* law belong to the owner, (noticed also in the *Jewish* law \*,) and the duty of the finder is :

1st. Not to wait for a reward.

2dly. To advertise.

3dly. Not to suffer them to perish.

4thly. To reserve to the owner a power of obtaining his property.

In other cases to restore it to the Lord of the Manor.

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\* Deut. xxii. 1—3.

Time for prescription for *stray cattle* is a year and a day: the restoring of them to the Lord of the Manor seems to be the only remains of ancient vassalage.

In a *wreck* it is every one's duty to assist in getting it out of the water.

### ALIENATION OF PROPERTY.

(See RUTHERFORTH'S INSTITUTES, c. 6, 7.)

(76.) *Alienation of property* is:

- 1st. By gift or donation.
- 2dly. By will or testament.
- 3dly. By sale.

DEF. A *gift* is when one confers something on another, without any expectation of a return.

A gift is different from a will in this, that the acceptor of a gift has a right to it, both in the donor's lifetime and after his death.

But what is given by will is only at the death of the testator.

There is a distinction between the *English* and the *Roman* law with respect to gifts, for by the *Roman* law, a gift might be recalled on the ingratitude of the receiver, or if the donor had children afterwards. By the *English* law a gift is irrecoverable for three reasons:

- 1st. The liberty of individuals would be restrained.
- 2d. There would be many false pretences of ingratitude.
- 3d. The distress which might be occasioned by it at unseasonable times.

(77.) DEF. A *will* is the declaration of a man's intention, which the law permits to take place on the event of his death.

The duties appertaining to Wills come under *Morality*.

## WILLS.

(*Paley*, b. iii. pt. 1. c. 23.)

(78.) DEF. A *will* or *testament* is the legal declaration of a man's intention of what he wills to be performed after his death.

DEF. The person who makes a will or testament is called a *testator*; he who dies without a will is termed in law, an *intestate*.

DEF. A gift of lands or tenements by will is called a *devise*; he who gives the *devisor*; and the person to whom they are given the *devisee*.

DEF. A bequest or gift of money, goods, or chattels by will, is termed a *legacy*; and the person to whom they are bequeathed, a *legatee*; and if the gift be of the residue of an estate after payment of debts and legacies, he is then styled a *residuary legatee*.

DEF. An *executor* is he to whom a man commits by will the execution of his last will and testament; in default, administration is granted by the ordinary, to some person, thence called the *administrator*, and whose duties nearly coincide with those of an executor.

DEF. *Assets* are effects in the hands of an executor or administrator, sufficient to meet demands on the estate of the testator.

DEF. A *codicil* is a supplement or addition made to a will by the testator.

DEF. An *informal will* is one so deficient in form, that in point of law it will not hold good.

DEF. *Property* or *estates* are of two kinds:

1st. Personal.

2d. Real.

*Personal* property, or *personalty*, consists of leases money, goods, and other moveables, which either are or easily may become transferable.

*Real* property consists of lands, tenements, and of such things as are permanent, fixed and immovable; and the interest in which continues during the life of the owner, or the life of another person or persons.

DEF. *Estate* in ordinary discourse, is applied only to land; but in law, obtains the same signification as property.

DEF. *Descent* or *hereditary succession*, is the title whereby the land or tenements devolve on a man from his ancestors by act of law as heir.

DEF. *Heir at law* is he to whom the law assigns the estate immediately on the death of the ancestor; and an estate so descending is called an *inheritance*.

DEF. *Purchase* is a term of wide signification in law, and is used in contradistinction to *descent*.

(79.) The first mention of Wills is in the Old Testament \*, where *Jacob* bequeaths to his son *Joseph* a portion of his inheritance double to that of his brethren.

They were introduced into *Athens* by *Solon*, and into *Rome* by the Twelve Tables. The *Roman* law differs from the *English* in the wills of Personals—by the *English* a person may leave them as he pleases, by the *Roman* he cannot.

They were disallowed by the *Germans* in the time of *Tacitus*.

## OF THE TESTATOR.

(80.) A *testator* has no natural right to make a will, for as the right of property depends on the use and want of it, therefore when that want ceases, the natural right ceases; therefore the right of making a will is not a natural, but a legal right.

The law has permitted this right for three reasons:

1st. It encourages industry; for no person would be very industrious to gain property, of which he could not dispose as he might choose.

\* Gen. xlviii. 22.

2d. The obedience of children is promoted by the dependence which they have upon their parent's will.

3d. The encouragement of marriages.

It is the duty of the testator to consider kindred for two reasons :

1st. From the design of the common ancestor.

2d. From the expectation you create.

It is also the duty of the testator to provide for *poor relations*, in preference to others equally poor :

1st. Because the distress is more within your notice.

2dly. Because others will not, if you neglect it.

Lastly, the duty of a testator is, that he is bound to make a will in two cases :

1st. Where neglect will create disputes.

2d. Where property would go otherwise than duty directs :

Ex. As where notwithstanding there be a large family, the eldest son inherits the whole property.

### OF THE SURVIVOR.

(81.) The *survivor* is not bound to consider the testator's intention in an informal will ; for every person's right is founded on what the law suffers under certain restrictions—therefore if the testator does not follow these restrictions, his right of disposing will cease. But however, it is the duty of the survivor (if he was present at the making of the will, and at that time conscious of its defects) to inform the testator of the informality.

### DESCRIPTION OF WILLS.

(82.) DEF: *Wills* are of two kinds :

1st. Verbal.

## 2d. Written.

A *verbal* (called also a *parol* or *nuncupative*) will, is when a man declares by word of mouth his intention of leaving personal, while he is at home :

Ex. If a man should die when he was riding out, and had declared his intention of leaving to one witness, it was legal till recently by the *English* law, if the sum was less than £30 ; if more than £30, it must be proved by three witnesses, taken into writing within six days, and proved within six months.

(83.) SCHOL. Verbal wills made subsequent to December 31st, 1837, are rendered invalid by the *English* law : but the old law continues in force as to all wills made at or prior to that date.

The 1 Vict. c. 26, besides rendering void in future, all but *written* wills, effects other changes in the old law.

## DEVISE BY WILL.

(84.) By the *Wills Act*, in the *English* law, all property is placed on the same footing, and may be *devised* in the same manner.

Formerly, no *real* estate could be devised for longer than a term of years ; but now every person is enabled to dispose of the whole of his landed property to whom and what object he pleases, and that even to the total disinheriting of the heir-at-law, notwithstanding the vulgar error of the necessity of leaving the *heir a shilling*, or some other legacy, effectually to disinherit him.

DEF. *Cutting people off with a shilling* is a matter of form not necessary or required by law, but is only to show that the testator did not forget or overlook such people, but that leaving them nothing was an act of deliberation and design.

## OBSERVATIONS ON WILLS.

(85.) OBS. 1. By the *English* law, a *will* of any kind of property must be in *writing*.

(86.) OBS. 2. The will or codicil must be signed at the foot or end thereof by the testator.

(87.) OBS. 3. If he does not sign, it must be signed by some other person in his presence and by his direction.

(88.) OBS. 4. The signature must be made, or acknowledged, by the testator, in the presence of two or more witnesses present at the same time.

(The *Roman* law required seven witnesses.)

(89.) OBS. 5. The witnesses must attest and subscribe the will or codicil in the presence of the testator.

(All legacies left to the subscribing witnesses are void by law.)

(90.) SCHOL. The old law takes very little care for personals compared with what it takes for estates, which is owing to there being very few personals when the law was made; there being none except household furniture and clothes.

## OF EXECUTORS AND ADMINISTRATORS.

(91.) By the *English* law, the property of a deceased person vests in his *executor* from the time of his death; in an *administrator*, from the time of the grant of letters of administration.

It is the duty of the executor or the administrator to prove the will, which is done by depositing it in some ecclesiastical court, and receiving a copy, with an attestation of the proof; this is called the *probate*.

If the property be in different dioceses, the will must be proved in the Court of the *Archbishop of Canterbury*, i. e. in *Doctors' Commons*.



Now it may be asked, why *spiritual* courts have any jurisdiction in the probation of wills?—The reason is this—formerly, at a person's death, all his personal property was the right of the King, who transferred it to the bishop of the diocese, to make use of it by assisting the poor, and appointing persons to sing masses for the souls of the deceased.

(92.) The order which the executor or administrator ought to observe in the disposition of the assets is :

1st. He must pay all funeral charges, expenses of probate, and other necessary outgoings.

2dly. All debts due to the crown.

3dly. Certain debts which by statute are preferred.

4thly. Debts of record.

5thly. Specialty debts.

6thly. Simple contract debts; among these, wages due to domestic servants are preferred.

7thly. Lastly, legacies—(for a man should certainly be *just* before he is generous); and then if any thing remains, it goes to the residuary legatee; and if the fortune falls short, the legatees must abate.

## OF SUCCESSION TO INTESTATE PERSONS.

(93.) In *this* case the legislature ought to consult the duty and intent of the deceased, and for the same reason which occasioned the granting a power of making a will.

(94.) DEF. *Consanguinity* or *kindred* are of two sorts :

1st. Lineal—when they descend from each other.

2d. Collateral—when they do not :

Ex. Uncle and nephew.

There are two ways of computing consanguinity :

1st. By the *Civil Law*—in computing by which you first ascend to the common ancestor, and then descend to the person enquired after, reckoning each generation a degree :

Ex. Uncle and nephew are three degrees removed ; first cousins are four degrees removed.

2d. By the *Canon Law*—in computing by which you ascend to the common ancestor, and take the distance of the most remote :

Ex. Uncle and nephew are two degrees removed, for the nephew is farthest removed from the grandfather.

Kindred are computed by the *Civil Law* for personals, and *Canon Law* for real estates.

(95.) There are two methods of succeeding in *Common Law* :

1st. *Per capita*—which is when each person inherits by his own right.

2d. *Per stirpes*—when they inherit from the right of their ancestors :

Ex. If there be two sisters, one of whom has a child, the other several ; if the latter dies, the former will inherit *per capita* (and consequently her child *per stirpes*) as much as all the other children. But if both sisters be dead, they will all inherit *per stirpes* and have equal shares.

## OF THE PERSONAL ESTATE.

(96.) By the *English law*, in the distribution of the *personal property* of an intestate there are three cases :

1st. When there is both a widow and children.

2d. When there is a widow and no children, nor lineal descendants of children.

3d. When there are children and no widow.

In the *first*,  $\frac{1}{3}$  goes to the widow, and the remaining  $\frac{2}{3}$ , in equal portions, to the children, or if any of the children be dead, to their issue in equal portions.

In the *second*,  $\frac{1}{2}$  to the widow and  $\frac{1}{2}$  to the next akin of the deceased, or their representatives.

In the *third*, the whole is divided equally amongst the children; or if any of them be dead, amongst their representatives.

There may be a *fourth* case, in which there is neither widow nor children living, nor representatives of children deceased, in which case, the whole property of the intestate is given to the father of the deceased. If he has no father living, the whole shall go to the mother, brethren, and sisters of the deceased, in equal portions.

If there are neither brothers nor sisters, the whole shall go to the mother.

If the mother be dead, the whole must go to the brothers and sisters and their children: but if there are neither mother, brother, nor sister, then the whole must go to the grandfather or grandmother.

After these, uncles, aunts and nieces of the intestate are admitted in equal portions. And, on failure of all the above mentioned relatives, then the whole shall go to the next nearest of kin who shall be alive.

With regard to personals, children of the 2d marriage and of the 1st, have an equal right.

#### OF THE REAL ESTATE.

(97.) By the *English* law, the eldest son inherits, as heir-at-law, the *real property* of an intestate. If the eldest son is dead, his eldest son, or issue, succeeds to the land. If the eldest son is dead, without issue, then the lands descend to the second, third, and all other sons of the intestate respectively, in order of birth, and to their issue in like order.

If a man has no sons, nor any issue of them living at his death, his daughter is to inherit; or if he has more than one daughter, they all inherit equally, and become joint partners in the land as *co-heiresses*. If the daughters are dead, leaving issue, such issue inherit the land, the eldest son of each taking his mother's share; or if no son, then daughters equally.

Lineal descendants always represent their ancestors. Kindred derived from the male line to be preferred to those from the female, except when it plainly appears to be descended from the female:

Ex. 1. A grandson by the eldest son, two sons, and a daughter. Grandson inherits first, after him the two sons, and last the daughter.

Ex. 2. Granddaughter by the eldest son, and grandson by a younger son. If the eldest son ever possessed the estate, his daughter would inherit; if not, the grandson would inherit.

By the old law, if a man die without either sons or daughters, the land descends to his eldest brother of the *whole blood*, or his issue; or, in case of the death of the eldest brother, without issue, then to his second, third or other whole brothers respectively, in order of birth, or their issue. If the intestate has no brothers, then to his sisters of the whole blood equally. If he has neither sons nor daughters, brothers nor sisters, the land goes to the eldest uncle by the father's side, and his issue; or for want of such, to his other uncles by the father's side. In defect of all these, to his aunts on the father's side, equally among them all, in like manner as to his daughters and sisters.

(98.) The law of inheritance, in failure of lineal descendants, described in the last paragraph, applied only to descents which took place prior to January 1st, 1834, from which time 4 W. IV. c. 106. § 6. came into force; by which it is enacted, that the *lineal* ancestor may be heir

in preference to a *collateral*. The effect of this alteration of the old law of descent is, that the ascending line, in every instance, comes into the succession immediately after the descending :

Ex. Thus, the father succeeds before brothers and sisters, and the grandfather before uncles and aunts.

(99.) Hitherto, in the descent of lands, relations of the *half blood* could never inherit :

Ex. Thus, if a man had two sons by different wives, and died, and his first son took the land as heir to him, and died without issue, the son by the other mother being only his *half* brother, could never inherit the land as heir to his brother.

But in the act just mentioned (ART. 98.), the distinction between the whole and half-blood is, in a great measure, abolished ; and the law of succession to *real* property made more conformable to that of *personal* estate ; in the distribution of which, the half-blood share equally with the whole blood.

*Half-blood* was excluded, because there are many cases in which they could not find demonstration, and therefore they adopted the greatest probability, as it is probable the whole blood inherits more of the common ancestor than the half-blood, but this was carried too far, for a nephew would inherit before a son by a second marriage.

(100.) SCHOL. It seems unreasonable that the eldest son should be preferred, and males to females ; but it originated in the *Feudal System*. Several offices were to be performed which females could not :

Ex. Knight's service.

By the *Roman* law the succession of both personal and real property was directed nearly as our personals, and it paid no regard to primogeniture or sex.

## FEUDAL SYSTEM.

(101.) The *Feudal System* has its origin from the military policy of the *Celtic* nations.

DEF. Its design was to secure their new acquisitions; *feuds*, *fiefs*, or *fees*, are stipends, or allotments of lands, with conditions annexed.

The person who gave the allotments was called *lord* or *baron*, and the person who received an allotment, was called *vassal*. The lord and vassal have a near resemblance to the patron and client of the *Romans*.

The conditions which were annexed were two :

1st. To attend the lord's person in peace.

2d. To accompany him in war and defend his person.

An oath was administered by the lord of the vassal which was called the *oath of fealty*, and the ceremony was called *homage*; the form of which was like that of taking a university degree—by putting the hands between the knees, and within the hands, of the lord.

(102.) The feudal system did not prevail in *England* till the time of *William the Conqueror*, who distributed the lands out in shares, and ordered all the values to be enrolled in a book which was called the *dome's-day book*; and this was the first establishment of the feudal system by law in *England*.

According to *Tacitus* the feud was at first annual amongst the *Germans*, and afterwards for life, but not hereditary. It was for life in *England*, and continued to the heir if he could do suit and service. Therefore women, infants, and monks were excluded.

(103.) The eldest person always inherited, that the service might not be divided, which accounts for the eldest son being heir to an estate (ART. 100.).

Another reason for excluding younger sons was on account of honorary feuds, for as these could not be divided,

one person only could possess, and the lands consequently must remain with one person.

The *English* law supposes all property to be held by some superior; of the king as lord paramount, and other persons to whom allotments were made by him, as lords of inferiors.

(104.) In the feudal system, protection and obedience were reciprocal; and from this principle it was soon established:

1st. That the lord could not alienate his seigniority.

2dly. Nor the vassal his allotment without mutual consent.

In the 1st case the future lord might exact more difficult service.

In the 2d the vassal might substitute a person unequal to the service.

The services performed were afterwards called *reditus*, whence is derived *rent*.

They had two distinct names for these services:

1st. Free service.

2d. Base service.

*Free service* was called *knight-service*, which was generally some honourable office. A knight's fee was £20 *per annum*, for which he was to attend the lord forty days in the year. Several knights' fees constituted a *barony*.

*Base service* was called *villanage*, which was to do any servile office, such as tilling the ground.

These tenures were granted by delivering corporeal possession, (i. e. delivering some part of the property into the vassal's own hand,) which was called *livery of seisin*.

The fine for alienation was  $\frac{1}{3}$  of the yearly rent, which at first was performed by service, and was afterwards paid

in money; and this fine was paid for a new feudatory, either at the death of the old one, or when the lands were alienated by mutual consent. On failure of issue of the feudatory, the estate was escheated, i. e. fell to the first lord.

There is one knight's service remains unto this day, which is the *champion at the coronation*, and the person who holds by this tenure, always attends at the coronation.

*Knight-service* and *grand sergeantry* are synonymous terms.

(105.) As the services were abolished, a composition was given, which was called *scutage*; whence arose the *land-tax*. It was at first levied by an equal assessment, and afterwards at the king's pleasure.

*Scutage* continued in force till the reign of *King John*, at which time was instituted the *Magna Charta*, the substance of which is, that no assessment can be levied on the people without the consent of Parliament.

But however the king did not give up all his prerogative. There were some hardships still remaining, which were principally these :

1st. Aids, which were an occasion of assistance of men and money, and only differed from the former assessments, that they were assessed before at the king's pleasure.

2dly. Reliefs, which were the first fruits, or first year's profits, which a person paid to the king.

3dly. Wardship, which was when the king, or lord of the manor, took possession of a minor's estate, and appropriated the profit to his own use.

4thly. Suing out livery, which was generally  $\frac{1}{2}$  a year's profit paid on a person's taking possession of an estate.

The persons who presided over these were called *justices in eyre*, and were the origin of the present *justices of assize*.



(106.) *Suing out livery* was abolished in the reign of *Charles the Second*, and reduced to *soccage*, which is derived from the *Saxon* word *soc*, *liberty*. This was of more use than *Magna Charta*, because it was certain.

*Tenures by soccage* were of four kinds :

- 1st. By fealty and 20 shilling rent.
- 2d. By homage, fealty and 20 shilling rent.
- 3d. By homage and fealty.
- 4th. By fealty and doing some work.

From this tenure all our *freeholds* are derived, by laying aside the services, and converting the whole into money.

*Inferior soccage* was of three kinds :

1st. Petty sergeantry, which consists in paying small rents towards the war :

Ex. Bow and arrows.

2d. Tenure in burgage, which is where certain rights are annexed to houses, or the site of houses.

In this tenure the property descended to the youngest son, which arose from the lord's having the first night's lodging with the wife of the tenant, and it was more likely the youngest son was legitimate.

3d. Gavelkind, which has four customs annexed :

$\alpha$ . The tenant may alienate his estate at 15 years of age.

$\beta$ . The estate does not escheat to the Crown in case of attainder, but returns to the heir.

$\gamma$ . All the sons inherit equally.

$\delta$ . They have a power of devising.

These chiefly prevail in *Kent*, and are remains of *Saxon* liberty.

(107.) The origin of *copyhold* tenures arises from villanage, which is a tenure held by a copy of the Court Roll. Ancient villanage is something similar to the *Spartan* εἰλωτες, *helotæ*. As the tyranny of the higher feudatories increased, the villains prescribed, and the law gave them their estates at their old rent, which is the tenure of copyhold estates to this day.

(108.) The residence of the principal feudatory is called a *manor*, and the land which he keeps in his own possession a *demesne*.

### OF PROMISES.

(*Paley*, b. iii. pt. 1. c. 5.)

(See RUTHERFORTH'S INSTITUTES, c. 12.)

(109.) DEF. A *promise* is an engagement to perform what is supposed to be in a man's power.

(110.) The *obligation* to perform a promise is deduced from two reasons :

1st. Men are naturally disposed to rely on them.

2d. From the necessity of such a conduct to the well-being of society ; for if a person could not rely on the promise of another, many disadvantages would accrue to society : hence it is in obedience to the Will of God (ART. 34.).

(111.) We must next consider *in what manner* promises, which are relative terms, are to be performed :

They are not to be performed in the sense that either the promiser or promisee understands them, but in the *sense* that the promiser thinks the promisee understands them, when the promises are made. This restriction is made, because the literal interpretation often conveys a different meaning from the phrase or words :

EX. 1. The *Locreans* promised friendship to the *Sicilians* while they trod upon *that earth*—having at that

time *some* in their shoes, which after throwing out they disengaged themselves from their promise.

This was a collusion.

Ex. 2. *Temures* promised the *Sebastians*, that if they would capitulate, no blood should be spilled, and afterwards buried them alive.

(112.) There are three *degrees* of promises :

1st. Verbal, where there is no equivocation, and where they cannot be misunderstood.

2d. Where there is only an action, or behaviour, creating such an expectation.

3d and least degree is seeing a person act as if he had some expectation, without hindering him.

A *verbal* promise is a declaration of a man's intentions, with an engagement to continue it :

This consists of two parts, the *first* of which may be without the *latter*; that is, a man may declare his intentions without engaging to continue it.

(113.) Promises are *void* in four cases :

CASE 1. When the promisee extorts them by force.

CASE 2. When he uses deceit.

The *1st* is void, because a person extorting a promise by force cannot reasonably suppose its performance is ever intended: but this does not extend to violence offered by a third person, or to military capitulation.

The *2d* is void because a person, who is known to be imposed on when he makes the promise, cannot be expected to perform it, when he is undeceived; but this has the same exception as the *1st*.

CASE 3. Injustice, i. e. their inconsistency with the law :

This may be divided into four parts :

1st. When the injustice is known to neither party, because the justice is presumed by a condition.

2d. When it is known to the promisee only, it is void ; because the promiser presumed the justice of it.

3d. When it is known to the promiser only, this promise is void, whether he intends performing it or pleading the exception of injustice.

4th. If known to both, they are obliged to make it void, because they are bound by a higher law.

CASE 4. Impossibility extends to every thing that exceeds the power, or does not depend upon the will of either party. To this likewise may be applied the last four cases :

1st. If it be known to neither, it is simply void.

2d. When known to the promisee only, it is void, because the promisee inserts the possibility : but it is injurious, if it be made impossible by means of the promiser :

Ex. A soldier promised to go with a general to the wars, and afterwards disables himself.

3d. When known to the promiser only, it is void, because it ensnares the promisee, and draws him into fruitless attempts.

4th. If the impossibility be known to both, it is void ; but if the impossibility be taken away, the obligation returns.

(114.) There are two *difficulties* with regard to promises :

1st. Whether a promise ought to be fulfilled, which was given for a bad motive ?

Ex. If a person were bribed to vote for a candidate at an election, his promise would certainly be void, because the higher obligation operates first.

2d. Whether it be necessary to perform a promise, which has been obtained by some misinformation ?

If the misinformation be the fault of the promiser, it is valid ; if of the promisee, void :

EX. If a person promised another a legacy, and afterwards found his estate was not so large as he expected, he is not free from that promise.

(115.) There are several *detached* cases where promises are *void* :

CASE 1. When they contradict former promises.

CASE 2. Before the acceptance, or giving notice to the promisee :

EX. If a person promise another by letter any thing, and recall that letter before the promisee receives it, he is free from that promise, though other people had seen the letter.

CASE 3. When released by the promisee : unless when a promise is made to another by the intervention of a third person, in which case you ought to consider, whether that person be a messenger of the promisee ?

CASE 4. When the promise is erroneous : i. e. when the promiser believes the promisee understands and receives it subject to such conditions, and proceeds on such a supposition :

EX. A. sells B. an estate subject to certain conditions, which he supposes B. knows. If A.'s supposition be erroneous, the purchase is void.

(116.) SCHOL. 1. *Query*. Whether, when a person is of age he be bound to fulfil a promise, made in his minority ?

*Answer*. Though in law he be not, yet in *Morality* he certainly is.

(117.) SCHOL. 2. *Query*. Whether an offence of the promisee excuses the promiser ?

*Answer*. This depends upon the magnitude of the offence. If it be such as disqualifies the promisee, the promise is void ; otherwise not.

(118.) A promise by the *English* law is a verbal covenant, wanting only the writing and sealing to be the same. The remedy, however, for non-performance is different; since in lieu of an action of covenant, there only lies an action on the case for the *assumpsit*, i. e. *undertaking*; the non-performance of which is the wrong or injury done—the damages whereof a jury are to estimate and determine.

### OF VOWS.

(*Paley*, b. iii. pt. 1. c. 5.)

(119.) DEF. A *vow* is a promise made to God.

It does not appear how far we are *obliged* to fulfil vows, because it does not appear how far God, who is the promisee, accepts them: but on a supposition that he accepts them, a violation implies a disrespect to God.

In other respects they are subject to the same rules as *promises*, if the exception can be applied. In the *two first* it cannot be applied, and in the *two last* cases of promises it may be applied (ART. 113.):

EX. 1. The vow of *Jephthah*\* is void, because contrary to the law.

EX. 2. The vow of *St. Paul*† is not void, because contrary to no law.

(120.) SCHOL. *Christianity* gives no encouragement to make vows—as *Judaism*; much less to break through them when made: the *few* recorded in the New Testament were religiously observed.

COR. Hence *Solomon's* apophthegm is coincident: “when thou vowest a vow unto God, defer not to pay it; for He hath no pleasure in fools: pay that which thou hast vowed. Better is it that thou shouldest not vow, than that thou shouldest vow and not pay.”‡

\* Judg. xi. 30, 31.

† Acts, xviii. 18; xxi. 23.

‡ Eccles. v. 4, 5.

## CONTRACTS.

(*Paley*, b. iii. pt. 1. c. 6.)

(See RUTHERFORTH'S INSTITUTES, c. 13.)

(121.) DEF. A *contract* is an agreement between two parties to do, or not to do any particular thing.

A contract, by the *English* law, is an agreement to do or not to do, a thing upon sufficient consideration.

The difference between a contract and a promise is, that in a *contract* the concurrence of both parties is necessary, in a *promise* it is not.

The nature of contracts is either expressed or implied: *expressed*, when the terms of agreement are openly avowed: *implied*, when they are such as are directed by reason and justice, and such as the law supposes every man able to perform.

(122.) As contracts are mutual promises, the *obligation* to perform them is the same as *promises*.

How far contracts are to be governed by *custom*—

They are to be governed by custom on this account, because when a person engages to do a thing, he does it with customary conditions:

Ex. If a carrier were to lose a parcel, he would be obliged to make it good, because customary.

(123.) Contracts are divided into two parts:

1st. Contracts of exchange.

2d. Contracts of labour.

*Contracts of exchange* may be considered:

1st. Ancient.

2dly. Modern.

*Ancient* is called barter; *modern* is called bargain:

*Barter* is the exchange of one commodity for another.

*Bargain*, the exchange of a commodity for money.

COR. Since *Homer* makes *oxen* the measure of property, the use of money must have been unknown in his days; hence we may infer that barter was then the only mode of contracts of exchange :

Ὅς πρὸς Τυδείδην Διομηδεα τευχέ' ἀμείβε,  
Χρυσέα χαλκείων, ἑκατομβοί' ἐννεαβοίων.

Il. Z. 235, 236.

The difference between barter and bargain is this, viz. in the *former*, the equivalent depends on the particular exigence of a thing :

EX. A man wanted sheep and had corn : the quantity of corn depends on his exigence of the sheep.

In the *latter*, the equivalent depends on the want and scarcity of the article.

DEF. *Sale* comprehends both : but by the *English* law, if it be a commutation of goods, it is more properly an exchange ; but if it be a transferring of goods for money, it is then a sale.

*Contracts of labour* are four :

1st. Service.

2d. Commissions.

3d. Partnership.

4th. Offices.

## CONTRACTS OF SALE.

(*Paley*, b. iii. pt. 1. c. 7.)

(124.) DEF. *Sale* is the transmutation of property from one man to another, in consideration of some recompense in value, either permutation of goods for goods, or goods for money.



The *obligation* of the seller is, to give a true account, and to reveal the faults, except when silence implies faults:

Ex. As in an auction.

This exception is *void* where custom has not warned us:

Ex. If a person having an infirmity undertake a piece of labour he is not able to perform; then that contract will be void, though there were no warranting.

DEF. By *price* is meant the comparative value of a thing, and a *market price* is a fair price, because proportioned to the use and scarceness of the article, and no one need be scrupulous of taking it: but every thing tending to increase this price is injurious to the public:

Ex. Forestalling. It is a fraud to demand more, because a person exposing to sale, tacitly engages to sell at the common price, except he disclaims being governed by that price.

(125.) SCHOL. 1. *Query*. If the goods which are bought of a person be damaged in the seller's possession, whether the buyer or seller ought to make them good?

*Answer*. If the goods remain in the seller's possession by desire of the buyer, the buyer will be the loser; if by neglect of the seller, the seller will be the loser.

(126.) SCHOL. 2. *Query*. Whether it be lawful to give less for any goods than they are worth on account of the distress of the seller?

*Answer*. In this case the only excuse will be to declare to the seller that he may get more for them in another place; so that the seller may be judge whether it be more convenient to take this price or go to another place.

## OF LOANS.

(127.) DEF. *Loans* are of two sorts:

1st. Loans of consumable property.

## 2d. Loans of inconsumable property.

*Loans of consumable property* are such as may be returned in specie :

Ex. Money ; bills.

*Loans of inconsumable property* are what may be returned numerically the same :

Ex. A man lends a horse.

## CONTRACTS CONCERNING THE LENDING OF MONEY.

### OF INTEREST OF MONEY.

(*Paley*, b. iii. pt. 1. c. 10.)

(128.) *Interest* is of two sorts :

1st. Simple.

2d. Compound.

*Simple* is the receiving interest for the original sum lent.

*Compound* is interest for the principal and the accumulated interest.

(129.) In the Old Testament\*, *Moses* forbid the *Israelites* to take interest of a friend ; they were only to take interest of an alien : and from this some suppose that interest is unlawful. But this was only instituted for political reasons, i. e. that a dispersion of property might be preserved amongst them. The *jubilee* was instituted for the same reason, which was held every seven years, and at this time every one got again what they had spent.

*Aristotle* says money is barren, therefore it ought not to breed money ; therefore interest is unlawful.

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\* Deut. xxiii. 19, 20.

*Lycurgus*, the *Spartan* law giver, prohibited interest, but this was for political reasons.

(130.) In *defence* of interest we may observe :

1st. The principal is of use to the borrower, and would have been so to the lender.

2dly. The support of commerce is the first object of government, and this requires extensive credit, which is best supported by moderate interest, therefore interest is of advantage.

3dly. The particular advantage of interest is that it increases the number of lenders, and that money may be had at a short warning.

(131.) The *rate* of interest ought to be governed by two things, the inconvenience of lending, and the hazard of losing the principal : and it is always just when proportioned to these circumstances. The quantity of specie in the kingdom ought to be regarded in estimating the rate. For *England* the limit is £5 *per cent. per annum*, and compound interest is not allowed.

The *Roman* interest was £12 *per cent.*, which was called *usuræ reptissimæ*.

(132.) *Compound interest*, though forbidden by the *English* law, is just in point of natural equity, because interest unpaid after it is due, becomes part of the sum lent.

## CONTRACTS OF THE LENDING OF INCONSUMABLE PROPERTY.

(*Paley*, b. iii. pt. 1. c. 9.)

(133.) *Query*. In *inconsumable property*, whether is the borrower or the lender to bear the loss if it be damaged ?

*Answer*. If it be damaged by the fault of the hirer, then he is to bear the loss ; but if it be damaged in performing what it was hired for, then the lender ought to bear the loss.

When the thing hired becomes better or worse than the sum contracted for, if this happen by ordinary means, then the lender suffers the loss or gains the advantage : but if by extraordinary, then the borrower :

Ex. If a canal were cut past a house, then the owner would reap the advantage : but if there was a good crop of any thing, then the tenant reaps the advantage.

(134.) SCHOL. DEF. The word *hired* is used when a gratuity is paid, and the word *borrowed* when nothing is paid.

## CONTRACTS OF LABOUR.

### SERVICE.

(*Paley*, b. iii. pt. 1. c. 11.)

(135.) DEF. *Service* is a contract betwixt a master and a servant, and the work to be done and the treatment, ought to be governed by custom :

Ex. An apprentice ought not to be employed in things not belonging to the trade, because being taught the trade is all his wages.

A servant is not bound to perform unlawful commands.

When hired for a particular purpose, he ought not to be employed in any other.

When the servant is unable to work, the contract is void by the *English* law, because sometimes the master would be ruined by it ; though in many cases it would be very uncharitable in the master : if no special contract be made, a menial servant is then entitled to a month's warning, or a month's wages in lieu of it.

The master is responsible for his servant's vices, so far as it is in his power to prevent them :

Ex. Thus we read in the Old Testament \*, that it was

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\* Gen. xviii. 19.

reckoned a virtue in *Abraham*, that his household feared God.

COR. No authority is so efficacious in this, as that of masters of families.

A master is responsible for whatever the servant does by his command, or consent expressed or implied :

Ex. If a servant were to drive a cart through another man's field by his master's order, the master is responsible.

The master is likewise responsible for whatever the servant does in the ordinary course of his employment :

Ex. When the servant of an inn loses any thing, the master is responsible.

(136.) SCHOL. *Christianity*\* founds the relation and reciprocal duties of masters and servants on the attribute of the divine *Equity*—inferring an equality of happiness, at the long run. Since by increasing the sum of human happiness each person's share is proportionably increased, the duties of masters and servants are thence deduced.

## CONTRACTS OF LABOUR.

### COMMISSIONS.

(*Paley*, b. iii. pt. 1. c. 12.)

(137.) DEF. *Agency* is a contract by which a business is undertaken for one by another with or without a reward.

Agency only differs from the *Roman* term *mandatum* in this, viz. that it did not allow a fee.

RULE. A person ought to act with the same diligence and fidelity as if acting for himself. If he undertake it for a friend or an equal, he ought to act as he thinks is most for his advantage, and as he supposes the person would have acted, had he been present :

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\* Ephes. vi. 8, 9.

Ex. In buying him any thing, when he found it would advance ; though he had no fresh order.

EXCEPTION. But if he be acting for a superior, he ought to understand his commands well, and then execute them :

Ex. An officer in an army ought to obey his general's orders, though they do not correspond with his own opinion.

COR. The reason for the distinction is this, viz. that the importance of the obedience and the use of it is so great in the *military life*, that no advantage arising from a deviation from it, will sufficiently compensate for it.

The agent is entitled to charges whether the business succeeds or not ; and the accidents which happen to the goods are to be sustained by the owner : but the accidents which happen to the agent, he sustains :

Ex. Thus when the accident was unforeseen by the agent, he could not be supposed to consent to maintain the loss ; if foreseen, he undertakes the business with all its disadvantages and inconveniences.

## CONTRACTS OF LABOUR.

### PARTNERSHIP.

(*Paley*, b. iii. pt. 1. c. 13.)

(138.) DEF. *Partnership* is a contract where the goods or labour of two or more persons are united in a common stock, with a design of sharing in the gain.

It is the duty of each partner to conduct the business as if it were all his own.

If the original deposit be equal, the gain ought to be divided in proportion to their labour.

But if one put in more money, and the other do more work, the money ought first to be repaid and afterwards

the gain ought to be divided in proportion of the interest of the money, on that security, to that labour.

(139.) By the *English* law partners are responsible for each other's debts contracted in business, and therefore when a partnership is dissolved, there ought to be a public declaration.

A declaration of the dissolution of partnership ought to include all contracts but those which relate to something subsequent to the declaration.

*Again*, if a partner when he retires, draw out of the partnership stock all that he had paid in, the house being *insolvent* at the time, he will be obliged to refund to the creditors of the other partners :

Ex. *Query*. This is a *moot point* in the late failures of the great mercantile firms of *India* : 1830—1833.

## CONTRACTS OF LABOUR.

### OFFICES.

(*Paley*, b. iii. pt. 1. c. 14.)

(140.) DEF. An *office* includes a double contract with the founder and electors.

In a contract with the *electors*, a person is obliged to perform all customary duties, though not originally prescribed.

In a contract with the *founder*, the person is obliged to perform all duties, which are originally prescribed:

Ex. Master of a school.

(141.) What offices may not be performed by *deputy* :

1st. Where custom hinders :

Ex. Officers in the army.

2dly. Where a particular confidence is reposed :

Ex. An admiral.

3dly. Where personal duty is expressly required.

4thly. Where particular disadvantages arise to society from frequent substitution of deputies :

Ex. Curates.

(142.) By the *English* law, substitution of a deputy is not allowable in *church benefices* for two reasons :

1st. Because an indigent curate cannot have the same authority and affection as the rector.

2d. Because clerical merit would be discouraged.

But it is allowable to have a curate where the rector is employed in an office equally beneficial to society :

Ex. Having another living.

Another excuse is, where he enables the curate to live as he himself would have done.

The *English* law allows non-residence when officiating with the bishop, or under 40 years of age residing at the university: otherwise the forfeiture is £10 per month.

## LIES.

(*Paley*, b. iii. pt. 1. c. 15.)

(143.) DEF. According to *Locke* there are two kinds of truth (*Locke*, PAGE 191.) :

1st. Moral.

2d. Metaphysical.

*Moral* is when a person speaks what he imagines to be the truth.

*Metaphysical* when we declare what is actually true.

DEF. A *lie* is the violation of *moral* truth.

(144.) The *obligations* to veracity arise from two reasons :



1st. From the tacit engagement you enter into, when you address a person seriously.

2d. From the ill consequences which would arise to society from the violation of it:

These are of two kinds: particular and general; *particular*, when the mischief arises immediately from that falsity; *general*, by destroying that confidence which ought to subsist in society.

Lying is criminal, though no *particular* ill consequences may attend it:

Ex. Thus *Ananias*\* and *Sapphira*\* were punished, though no particular ill followed their violation of truth: but because of the *general* ill consequences.

(145.) There are some instances in which lies are *not criminal*:

1st. When the person you address has no right and does not expect to know the truth:

Ex. Idiots; madmen.

2dly. When truth is not expected:

Ex. Prisoners at the bar.

3dly. When no one is deceived and no public confidence hurt:

Ex. Novels; tales, etc.

And this method of writing is in some measure authorized by *parables* in the Scriptures.

(146.) In what cases lies are *not allowable*:

1st. It is not allowable to lie about indifferent matters, because consequences may be overlooked, and because public confidence is hurt:

Ex. *White* lies—which always introduce others of a darker hue.

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\* Acts, v. 5. 10.

2dly. It is not allowable from any seeming good which may arise from perpetual belief, because of the great danger of detection :

. Ex. Pious frauds ; forged miracles, etc.

COR. *Christianity* has suffered more injury from this cause, than from all other causes conjoined.

(147.) There are some lies without literal or verbal *falsehood* :

1st. When the words have a different signification from the customary one :

Ex. A person having earth in his shoes, promised to be your friend as long as he trod upon that earth (ART. 111.).

This would be a *literal truth* but a moral lie.

2dly. When there is any action or omission :

Ex. 1. If a person instead of speaking, were to point the wrong road to an enquiring traveller.

Ex. 2. Or when a person in telling any thing which is *wholly* true, perverts the sense by wilfully omitting part of it.

COR. This often diminishes the credit of an historian.

## OATHS.

(*Paley*, b. iii. pt. 1. c. 16.)

(See RUTHERFORTH'S INSTITUTES, c. 14.)

(148.) DEF. An *oath* is solemnly calling on God to witness the truth of what you affirm, renouncing his favour and calling down his vengeance on you if what you affirm be not strictly true.

(149.) The *form* of an oath consists partly in words and partly in action :

The form amongst the *Jews*\* was by putting the hand under the thigh of the person who administered it. It was also a form to stretch forth their right hand towards heaven:

The words used were *Lord do so to me and more also*, and *as the Lord liveth*.

COR. Hence the phrase in the Old Testament may be explained: "their right hand is a right hand of falsehood."†

Amongst the *Egyptians* they swore by the life of their king:

EX. *Joseph* ‡ swore by the life of *Pharaoh*.

Amongst the *Greeks* and *Romans* an oath was taken by touching the altar.

In private contracts the form amongst the *Romans* was to shake hands; but in more important matters they used to kill a victim, and striking upon the head, wishing they might be so struck, if they did not perform what they swore.

(150.) The *English* form is to kiss the Gospels, and say *So help me God*.

The *English* form of an oath very imperfectly expresses its meaning; for if a stranger saw an oath administered, he would not know the meaning of it. In no country in the world is the form worse contrived, either to express or impress the nature of an oath than in *England*.

Amongst the *Scotch* till lately, the form of an oath was like that of the *Jews*, viz. to stretch forth their right hand towards heaven, and was practised by the *Stuart* family at their coronation.

(151.) We must now consider the *lawfulness* of oaths, which is so much disputed by the *Quakers* and *Moravians*:

\* Gen. xxiv. 2, 3. 9.

† Ps. cxliv. 8. Dan. xii. 7.

‡ Gen. xlii. 15.

*They* say that all oaths are prohibited by *Christ* \*.

But here we must consider it was usual amongst the *Jews* to confirm every trivial matter with an oath, and those oaths merely trifling also. Our Saviour therefore here only censures their insignificant oaths upon trifling occasions, and is silent as to the name of the Deity: inferring that you should swear by God only, and that only on solemn occasions.

And we have even the authority of God Himself for the lawfulness of an oath: "for when God made promise to Abraham, because he could swear by no greater, he sware by Himself." †

The lawfulness of an oath likewise appears from several other parts of the Bible ‡.

(152.) The *obligation* to perform an oath arises from this consideration; that the violation of it will be punished more heavily than a simple lie, or breach of promise, which does the same mischief:

1st. Because it implies a contempt of God.

2dly. Because committed in spite of religious restraints.

3dly. Because it violates a greater and important confidence: for what higher tie can there be on the consciences of men?

(153.) Oaths ought always to be performed in the *sense* the imposer intends.

(154.) Oaths are of two sorts:

1st. Assertory.

2d. Promissory.

*Assertory oaths* are always binding; *promissory* are not, and for the same reasons that *promises* are not.

\* Matt. v. 34.

† Heb. vi. 13. Exod. xxxii. 13.

‡ Numbers, v. 19. Deut. vi. 13. 1 Sam. xxiv. 21, 22. Matt. xxvi. 63. Rom. i. 9. Heb. vi. 16.

Oaths extorted by violence, where they imply any thing unlawful, are not binding: but where the object is lawful they are binding; because the gain is not equal to the mischief attending the violation of an oath; and because bloodshed is often prevented by a person's relying on an oath:

Ex. If a robber were to make you swear that you would not inform against him, that oath would be void, because the obligation of your duty operated first: but if he made you swear you had delivered all, you ought to perform your oath.

(155.) The *abuses* of oaths in general arise from their bad form and frequency. The shortness and obscurity of the *English* form, together with the levity and too great frequency with which it is administered, has brought about an inadvertency to the obligation of an oath in *England*, which, both in a religious and political view, is much to be lamented.

To remedy the *first*, it is the duty of all magistrates to reject voluntary affidavits, and to explain the nature of an oath. To remedy the *second*, oaths ought to be abolished in small offices.

(156.) There are five particular *kinds* of oaths:

1st. Oaths to observe local statutes.

2d. Oath of allegiance.

3d. Oath against simony.

4th. Oath in evidence.

5th. Oath against bribery.

## OATHS.

### OATHS TO OBSERVE LOCAL STATUTES.

(*Paley*, b. iii. pt. 1. c. 21.)

(157.) *Oaths to observe local statutes* are not binding:

1st. In things contrary to law :

Ex. A mass is ordered to be said every day in our chapel of *Christ's* as well as in most of the college chapels in *Cambridge*.

2dly. When the statute is obsolete :

Ex. That there should not be less than two fellows, and five scholars in a room.

For in this case we may fairly presume, that the times and circumstances are so much altered, that the founders, were they alive, would themselves agree to the alterations.

There ought also to be a distinction betwixt things faintly expressed and absolutely commanded.

## OATHS.

### OATH OF ALLEGIANCE.

(*Paley*, b. iii. pt. 1. c. 18.)

(158.) The *oath of allegiance* is, that we will obey the Queen in all lawful commands. The words are, *I do sincerely promise and swear, that I will be faithful and bear true allegiance to her Majesty Queen Victoria.*

This obliges a subject :

1st. Not to take up arms against the Queen.

2dly. Not to enlist into a foreign service, so as to take up arms against his sovereign.

3dly. Not to have such an opinion of another person's right, as to maintain it against the reigning sovereign.

But this oath does not bind us to forbear resistance, when the sovereign's behaviour is such, that we should be of more service than hurt to the nation by resisting, when the sovereign violates the laws of our country.

It was enacted at the accession of *King Charles II.*, by the persons who deposed his father, and therefore

thought as they had acted right, that it would be just to repeat on a similar occasion. But now the *Commons* have so much power, that there is a saying: *the king can do no wrong.*

We are not to obey a prince when he is deposed or rendered incapable of governing, whether by or without his own fault: because our allegiance is to his person, as *king*, for there being a mutual duty between prince and people, the subject, in return for his allegiance, is entitled to protection, and the king's power of protection being annihilated, the allegiance cannot be expected to be continued.

## OATHS.

### OATH AGAINST SIMONY.

(*Paley*, b. iii. pt. 1. c. 20.)

(159.) DEF. *Simony* had its name from *Simon Magus*\*, who seeing the Apostles inspire people with the Holy Ghost, by the laying on of hands, offered them money to convey the same power to him; and this has by misrepresentation been applied to the purchasing of livings:

1st. The *English* law forbids a clergyman to purchase a living void or not void; or any body for him with his money.

2dly. It forbids the purchasing of the turn of a living void or likely to be void.

3dly. When there is any promise made to pay a stipend to the patron.

4thly. It is unlawful to purchase the perpetuity, and all the reversion.

There are some cases in which the purchasing of a living is allowable:

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\* Acts, viii. 18, 19.

1st. It is lawful for a layman to purchase the turn of a living, while full.

2dly. A clergyman is allowed to purchase the perpetuity, but not the turn while full.

3dly. A father may buy a living for his son, but not with money settled on him.

4thly. Exchange of livings is allowed, where no money or consideration is given on either side.

In ecclesiastical benefices the law adds to the oath of simony, the oaths of allegiance and abjuration.

The *oath of abjuration* denounces the *Popish* doctrine.

The punishment on detection of *Simony*, besides what awaits the crime of perjury, is loss of preferment.

## OATHS.

### OATH IN EVIDENCE.

(*Paley*, b. iii. pt. 1. c. 17.)

(160.) By *oaths in evidence* we are obliged to relate not only what is true, but the *whole* truth, whether asked or not; except when by telling the whole truth a person would accuse himself of a capital crime. The fear of losing his reputation, or tenderness for the accused person is no excuse. - The punishment for omitting any of the truth is transportation for seven years. The safe way therefore is, when a counsel asks you a question which you think dangerous, to refer to the court whether it be a lawful question or not.

(161.) If *Quakers* or *Moravians* be guilty of a lie in evidence, it is the same as perjury.



## OATHS.

OATH AGAINST BRIBERY IN THE ELECTIONS OF  
MEMBERS OF PARLIAMENT.

(Paley, b. iii. pt. 1. c. 19.)

(162.) *Oaths against bribery at elections* were instituted to prevent the success of wealth against merit. Candidates who offer bribes to the electors are sharers in the perjury.

It was not formerly considered as bribery, if the candidate paid the expenses of the electors: but this was so much abused, that it was found necessary to abolish it: which was done by an Act brought in by *Grénville* in the reign of *George II.* The violation of this oath seems nearly the same crime that *Esau*\* committed in selling his birth-right, and the punishment is nearly the same, *his* being to serve his younger brother, and *this*, slavery and taxes.

## SUBSCRIPTION TO ARTICLES OF RELIGION.

(Paley, b. iii. pt. 1. c. 22.)

(163.) DEF. *Subscription* is more than a promise, and less than an oath.

The *Articles* were compiled as a test of the Church of *England* after the Reformation. The persons who compiled them aimed at nothing but what every person might assent to. But the legislature could not expect an assent to each sentence in the *Articles*, from their knowledge of the different opinions of men.

At first the legislature only intended to exclude *Infidels*, and afterward to exclude *Papists*, or any sect which maintained principles subversive of the doctrines of the

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\* Gen. xxv. 33, 34.

Church of *England*. Therefore a person, who is not of any of these sects, may safely subscribe to the Articles; for they require nothing but what is in Scripture; though perhaps some passages may have been misrepresented by the compilers.

(164.) In *England* we are a religious as well as a civil community, and the legislature has established rules for our guidance in both: nor could it be otherwise, for the people will have some imaginations or other concerning the invisible world; if you do not provide them with a rational system, they will run after conjurors, gypsies, diviners, tales of fairies and apparitions; and lie open to the first crafty or enthusiastic deceiver who wishes to make dupes of them. Therefore the policy of a nation would be grossly defective, where no provision was made for instructing the ignorant, warning the thoughtless, and educating children: but how can such a provision be made without a summary of doctrines, and a set of *Articles* composing the *religious* system to be taught?

COR. 1. Hence it may be presumed that the compilers of our Articles framed such as in their judgment contained the soundest system of religion and most expedient for instilling salutary sentiments into the minds of the people. As they were men, they certainly were not infallible; and in Articles prepared for national use, there may possibly be something occasional, not necessary for the maintenance of true religion at all times, but calculated on the condition of the present: if any thing of this sort should appear, there is a legislature always in being who may rectify whatever, on proper examination, might be found amiss, and accommodate what might be judged unsuitable to the temper and occasions of our own times.

COR. 2. Hence the slighting of *religious* education in our *national schools* is one of the grossest defects in modern legislation (*Locke*, PAGE 60.).

## SECTION III.

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### DUTIES TO OUR NEIGHBOUR;

or,

### RELATIVE DUTIES.

(Indeterminate.)

#### CHARITY.

(Paley, b. iii. pt. 2. c. 1.)

(165.) DEF. *Charity* is consulting and promoting the happiness of our inferiors.

Charity in this sense is the principal subject of *Morality*. Worldly prudence will sufficiently direct our behaviour towards our superiors, and politeness towards our equals: but *Morality* alone will produce in us a proper regard towards our inferiors.

Moreover, charity in this sense is that part of *Christianity* by which the virtuous are the most distinguished.

The happiness of our inferiors may be consulted in two ways:

- 1st. By our treatment of them.
- 2d. By our bounty towards them.

## CHARITY.

## THE TREATMENT OF OUR DOMESTICS AND DEPENDENTS.

(*Paley*, b. iii. pt. 2. c. 2, 3.)

(166.) It may be observed :

1st. That it will be no small incitement to the proper *treatment of our domestics and dependents* to consider the obligation we are under to them : we owe far more to them than they do to us ; it is their industry which maintains and supplies our wants.

2dly. That their characters and dispositions equally merit and are alike affected by our kindness and benevolence.

3dly. *Christianity*\* forbids the harsh treatment of them (ART. 33. *Cor.* 2.).

4thly. The ill effects need no illustration—happiness is diminished, which is inconsistent with the Will of God (ART. 34.).

COR. Hence all pain directly or indirectly inflicted on domestics or dependents is wrong, when it exceeds that which is necessary for our service, or the punishment of their crimes.

## CHARITY.

## PECUNIARY BOUNTY.

(*Paley*, b. iii. pt. 2. c. 5.)

(167.) Our obligation to *bounty* stands on these grounds :

1st. The impulse we feel when distress is presented to us indicates the Will of God, the Creator.

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\* Ephes. vi. 9.

2dly. Since the right of property was founded that all might have a competency, the exclusive right of it ceases with respect to distress.

3dly. *Christianity*\* enjoins the *peculiar* importance of bounty (ART. 33. *Cor.* 2.).

(168.) There are three *modes* of bestowing bounty, none of which ought to be practised exclusively of the others.

MODE 1. By giving ample and stated sums, by way of pension or annuity, to individuals or families.

This mode of giving answers two good purposes:

1st. It will be applied to useful and substantial ends, which small cursory sums would not, from their being too inconsiderable to employ the thoughts for their application.

2d. It will prevent that part of distress which arises from the *dread* of want—a distress which is nearly equal to the want itself.

MODE 2. Subscription to public charities.

The particular advantages of this are:

1st. Because in them the money goes further:

Ex. In *England*, a sovereign given to an hospital will procure lodging, food, attendance, medicine, &c., which sum if given to the poor individual himself would not procure him one of these in like perfection.

2dly. It affords assistance which oftentimes private bounty would not:

Ex. Surgical operations in a country place; education, &c.

3dly. Because it best discovers and provides proper objects.

MODE 3. The relief of beggars.

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\* Matt. vi. 1–3; xxv. 35, 36. 1 Cor. xvi. 2. 1 John, iii. 17.

There are some who make it a principle always to refuse relief to beggars: but this ought not to be, for two reasons:

1st. Because without relief some might perish.

2d. Because it improves the principle of compassion and keeps up the *habit* of benevolence.

### BENEVOLENCE.

(169.) DEF. *Benevolence* is a diffused love to all in the compass of its effects.

The only solid foundation of this virtue is on the attribute of the divine *Equity*, inferring an equality of happiness amongst the creatures, at the long run:

Ex. Mankind may be compared to a large company dealing together in the traffic of happiness, where it is each member's business to improve the common stock, by adding to the quantity wherever he can, whether in his own or in another's hands: it is no matter where—wherever it is greatest; because the division of profit and loss being equal, the amount of his dividend will be greater or less commensurate to that of the capital stock.

COR. 1. Hence each man's happiness varies as that of the whole, and *vice versâ*.

Cor. 2. Hence,

Self love and social are the same.

*Pope.*

COR. 3. Hence the virtue of benevolence is the proper end of *Morality*.

COR. 4. Hence *Morality* and *Christianity* are coincident (ART. 33. Cor. 2.):

“Jesus said—thou shalt love the Lord thy God with all thy heart,—thou shalt love thy neighbour as thyself. On these two—hang all the law, and the pro-

phets.”\* “—— Jesus said —— A new commandment I give unto you, that ye love one another; ——.”† “—— Jesus of Nazareth——who went about doing good, ——.”‡  
 “—— faith, hope, charity, —— but the greatest of these is charity.”§

(170.) Since virtue is a habit, benevolence to be a virtue must be a habit; and since habits are formed by repetition (*Locke*, PAGE 55.), the habit of benevolence must be formed in like manner, i. e. by continual contemplation and practice we must acquire an *inclination* to it, so as to render it a *principle of action*.

(171.) If satisfaction be the *motive* of benevolence, it is the virtue of *prudence*; if the Will of God—it is the duty of *piety*; but if it be itself alone—it is then strictly the virtue of *benevolence*: spontaneous, impulsive, and habitual (ART. 27. *Application*).

COR. Hence benevolence may be called the *fifth* cardinal virtue (ART. 26.), since *that* and *justice* are equally distinct as a *favour* and a *debt*:

EX. When a person pays you what he owes, you do not thank him for it, because it is a debt and he is bound by the obligations of justice; but if he does you a service you had no right to expect, he merits your thanks, because it is then a favour and he is free from all obligation, i. e. it is benevolence, which does not begin till obligation ends.

(172.) The *advantages* of benevolence are manifold both to the individual and the community:

*To the individual:*

1st. It promotes private happiness:

Because a relish for good offices furnishes perpetual engagement; and the *secret* of human happiness lies in perpetual engagement (ART. 20.).

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\* Matt. xxii. 37. 39, 40. † Joh. xiii. 31. 34. ‡ Acts, x. 38.  
 § 1 Cor. xiii. 13.

2dly. It is an inclination most subject to gratification:

Because every person who is aware of another's fondness for good offices will readily acquaint him wherein he may serve him, so that he can never want objects of gratification.

3dly. It engages for the most part a suitable return:

A readiness to do good offices, begets esteem even in those who have it not themselves.

4thly. It is the greatest sedative of anger:

*Solomon*\* says, "a soft answer turneth away wrath": but kind usage is most likely to prevent it.

5thly. It gives constant cheerfulness and peace of mind:

Ex. The benevolent man can easiest persuade himself that God is good, and place the firmest, heartiest trust in Providence.

6thly. It is the only virtue which will enter with the righteous into heaven:

At death, faith will be intuition, hope, experience: but charity unchanged.

7thly. It is the characteristic of Christ our Saviour:

Ex. "Jesus of Nazareth—who went about doing good, ——," &c. †.

8thly. It is the direct approximation to God our Creator:

"For God is love." †

*To the community:*

It promotes the public happiness:

1st. By the forecited advantages to the individual:

\* Prov. xv. 1.

† Acts, x. 38.

‡ 1 Joh. iv. 8.



Because the community is made up of *individuals*.

2dly. By the benefits of society :

Because though there be other motives to promote the benefits of society, there is none so complete or universal.

(173.) SCHOL. Benevolence must be a *personal* affection, i. e. universal. Every one who has a *personality* (*Locke*, PAGE 142.) or capacity to receive good or evil is an object of benevolence (ART. 169.).

COR. 1. Hence “a righteous man regardeth the life of his beast.” \*

COR. 2. Hence the quality of benevolence

. . . . . is not strain'd ;  
It droppeth, as the gentle rain from heaven  
Upon the place beneath : it is twice bless'd ;  
It blesseth him that gives, and him that takes :

. . . . .  
It is an attribute to God himself ;  
And earthly power doth then show likest God's,

. . . . .

*Shakspeare.*

COR. 3. Hence it would of itself bring back the *golden age* of the Poets—and without any change in the elements :

*O bella età dell' oro,  
Non già perchè di latte  
Seu corse il fiume, &c.*

Tasso.

COR. 4. Hence were mankind apprized how many delightful fruits are the natural produce of a thorough benevolence, they would be more careful to cultivate it, and would suffer nothing to stint its growth. It is unnecessary to expatiate on its advantages, since they must occur to any one who will bestow a thought on the subject. Let it suffice, that the principle of benevolence is

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\* Prov. xii. 10.

capable of furnishing the plan of perpetual engagement for all stations of life; and that actions of every kind, both private and public, would be more satisfactorily and effectually laid on this than on any other foundation:

Ex. As in common life the love of money or the desire of rising in the world, shall have a constant influence on a man's character, i. e. all his actions shall constantly draw and tend to one of these points; and yet it may not be that his thoughts are always engaged in calculating his gains, or scheming how to make his fortune.

### OUR NEIGHBOUR.

(174.) DEF. *Our neighbour* is every one who needs our aid, and to whom we have the means of giving it.

COR. Hence the term *neighbour* arises from situation, and not from relative character:

Ex. A brother must always continue such wherever he goes, nor is it possible for any one who is not born of the same parents to become a brother afterwards; but there is a possibility that any person, however remote, may come to live at the next door.

COR. Hence "which——was neighbour——? —— He that showed mercy——. ——Then said Jesus——, Go, and do thou likewise."\* (ART. 33. *Cor.* 2.).

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\* Luke, x. 36, 37.

## SECTION IV.

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DUTIES TO OUR NEIGHBOUR;

or,

RELATIVE DUTIES.

(*Sexual.*)

MARRIAGE.

(*Paley*, b. iii. pt. 3. c. 8.)

(See RUTHERFORTH'S INSTITUTES, c. 15.)

(175.) DEF. *Marriage* is a contract between a man and a woman, by which each receives a right in the person of the other, which right is conferred for their mutual happiness, and for the production and education of children.

The *ceremony* of marriage has nothing to do with religion, and making it a religious ceremony only tends to increase the solemnity.

### • OBSERVATIONS ON MARRIAGE.

(176.) OBS. 1. DEF. The idea we call *love*, according to *Locke*, is what any one perceives, when he reflects on the thought he has of the delight, which any present or absent object is apt to produce in him (*Locke*, PAGE 114.).

(177.) OBS. 2. The strongest example of love is that of the *sexes*: but it is too commonly only another and more cleanly name for *lust*—desire abating, such love changes instantly into aversion :

Ex. As of *Amnon*\* with respect to *Tamar*.

(178.) OBS. 3. Love is not really such till by

. . . . . those graceful acts,  
 Those thousand decencies that daily flow  
 From all her words and actions mix'd with love  
 And sweet compliance, which declare unfeigned  
 Union of mind, . . . . .

*Milton.*

we have joined a thorough *friendship* to it, and rendered the sight of the object, in language more than two thousand years old, “the desire of the eyes” † (*Locke*, PAGE 115.).

COR. 1. Hence love peculiarly so called must always centre in a single object, because that thorough coincidence of interests and participation of pleasures necessary to render it perfect, cannot obtain between more than two persons of different sexes.

COR. 2. Hence the uses and abuses of marriage.

COR. 3. Hence *Christ's* law that a man and his wife “are no more twain but one flesh” ‡ (*ART. 33. Cor. 2.*).

### ABUSES OF MARRIAGE.

(179.) The *abuses of marriage* are six :

- 1st. Polygamy.
- 2d. Divorce.
- 3d. Incest.
- 4th. Fornication.

\* 2 Sam. xiii. 15.

† Ezek. xxiv. 16.

‡ Matt. xix. 6.

5th. Seduction.

6th. Adultery.

## ABUSES OF MARRIAGE.

### POLYGAMY.

(*Paley*, b. iii. pt. 3. c. 6.)

(180.) DEF. The first abuse of marriage is *polygamy*; and this was practised anciently amongst the Patriarchs. It was likewise used by the ancient *Britons*, and is at present retained only where *Christianity* is not professed: but wherever retained, *one* wife is notwithstanding acknowledged as supreme\*. It was forbidden by the *Greeks* and *Romans*.

The *unlawfulness* of polygamy appears:

1st. From the Will of God, making the number of males and females so equal; allowing rather the greater quantity of males for those slain in war.

2dly. The distraction of affection, the neglect of children, and the scarcity of women.

(181.) Polygamy is allowed by the *Jewish* law, but not commanded; and it is forbidden in *Christianity* † (ART. 33. *Cor.* 2.).

In *Sweden* this crime was punished with death.

By the *English* law it is reckoned felony: subject to be transported for seven years, or imprisoned with or without hard labour, for not exceeding two years; except either party has been continually absent from the kingdom for seven years, or lived in the kingdom without notice.

\* Gen. xxx. 9; xxxvii. 2. Esther, ii. 4.

† Matt. xix. 9. Rom. vii. 1—3.

## ABUSES OF MARRIAGE.

## OF DIVORCE.

(*Paley*, b. iii. pt. 3. c. 7.)

(182.) DEF. *Divorce* is a second abuse of marriage.

It was allowed by the *Greeks* and *Romans*, and is now by the *Persians*, the *Turks*, and throughout *Asia*.

But it is *immoral* for several reasons :

1st. It is inconsistent with the duty due to children.

2dly. The prohibition of it tends to preserve union by perpetuating the common interest ; and prevent quarrels, by laying the parties under the necessity of mutual compliance (ART. 18. *Cor.* 2.).

COR. Hence *Dionysius Halicarnasseus*\* observes on an institution of *Romulus's*, by which one sort of marriage was rendered indissoluble : οὗτος ὁ νομος τὰς τε γυναῖκας ἠναγκασε τὰς γαμετάς, οἷα μηδεμίαν ἐχούσας ἕτεραν ἀποστροφῆν, πρὸς ἓνα τὸν τοῦ γεγαμηκότος ἕϊν τροπὸν· καὶ τοὺς ἀνδράς, ὡς ἀναγκαιου τε καὶ ἀναφαιρέτου χρηματός, τῆς γυναικὸς κρατεῖν. σωφρονοῦσα μὲν γὰρ καὶ πάντα τῷ γεγαμηκότι πειθομένη γυνή, κυρία τοῦ οἴκου τὸν αὐτὸν τροπὸν ἦν, ὄνπερ καὶ ὁ ἀνὴρ.—

3dly. Because unlimited divorce differs nothing from fornication.

4thly. Because new objects would arise, which the parties would seek, if they could be relieved from the old ones.

(183.) It was permitted by the *Jewish* law, but forbidden by our Saviour†, except for adultery (ART. 33. *Cor.* 2.).

In *Germany*, desertion or any grievous crime authorizes divorce.

By the *English* law, adultery alone is a sufficient reason for divorce : but ill temper or severity (as was *Milton's*

\* l. ii. 95.

† Matt. xix. 9.

plea) is not, because easily pretended and not easily ascertained.

## ABUSES OF MARRIAGE.

### INCEST.

(*Paley*, b. iii. pt. 3. c. 5.)

(184.) DEF. *Incest* is a marriage contract, or cohabitation between persons nearly related, which may be either between lineal or collateral kindred.

It is *immoral* between *lineal* relations, because the duty between children and parents is inconsistent with the equality subsisting between man and wife. Between *collateral* relations, because the familiarity that is allowed would have bad consequences.

This abhorrence is not a *natural* one, for in the first ages of the world, relations must marry relations:

Ex. *Adam's* children were under necessity to marry with one another.

It was practised amongst the *Egyptians* and *Persians*.

(185.) It is recognized in *Christianity*\* (ART. 33. *Cor.* 2.).

(186.) The *restrictions* of alliance are the same in the Church of *England* as in the *Levitical* law; and they go no further than the third degree.

By the civil law first cousins are allowed to marry: but by the canon law both first and second cousins are prohibited. Hence by confounding these two laws, there has arisen a vulgar error that first cousins may intermarry and that second cousins may not: for they may both marry with each other. A contrary opinion has been derived from the prohibitions of the forecited *canon law*, which has long ceased to be of force on this subject.

The *Roman* law is nearly the same as the *English*.

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\* 1 Cor. v. 1.

The *Athenians* allowed a man a half-sister by the father's but not by the mother's side.

The same custom obtained in *Chaldea* in *Abraham's* time, for he and *Sarah*\* his wife, stood in this relation to each other.

## ABUSES OF MARRIAGE.

### FORNICATION.

(*Paley*, b. iii. pt. 3. c. 2.)

(187.) DEF. *Fornication* is a fourth abuse of marriage, and is derived from the *Latin* word *fornix*, signifying an *arch*, that being the form in which the public stews were built in *Rome*.

It is *unlawful* :

1st. Because it tends to diminish marriages by taking away the chief temptation.

2dly. It supposes prostitution; and prostitution deprives the State of women who might be useful, by subjecting them to a miserable and uncertain subsistence :

Ex. 80,000 prostitutes exist in *London*, of whom 8,000 die yearly †.

COR. Hence in *England*, the incongruity of helping distress in foreign climes, to forgetting the miseries of father-land.

3dly. Producing habits of lewdness which might increase to the worst.

4thly. Because of disease.

(188.) Fornication was formerly permitted in the civilized world, on the *plea* of preventing greater enormities, which permission being considered as a license, it soon ceased to be thought a crime :

*Public stews* were openly tolerated amongst the *Jews*, *Greeks* and *Romans*, and in *England* were put under the

\* Gen. xx. 12.

† Ryan — Prostit. in *London*.



direction and inspection of the Bishops: but the Legislature did not calculate on the evil consequences, particular and general, resulting from *misconstruing* its permission. Nevertheless those who kept the stews, were always despised; and in ancient times those who had been in them as well as their inmates, were obliged to wear flowered garments as a badge. Hence *St. Clement of Alexandria*\* remarks:—*την μοιχαλιδα δεικνυσι τα ανθισματα.*

(189.) Fornication is forbidden in the *Jewish*† law, and in *Christianity*‡ (ART. 33. *Cor.* 2.):

The *divine origin* of *Christianity* is immediately evidenced by the difference which distinguishes its *Morality* from that of the *Light of Nature*:

*Light of Nature*:

Ex. *Cicero* says: “*verum si quis est, qui etiam meretriciis amoribus interdictum juventuti putet: est ille quidem valde severus: negare non possum: sed abhorret non modo ab hujus sæculi licentia, verum etiam a majorum consuetudine, atque concessis. Quando enim hoc factum non est? quando reprehensum? quando non permissum? quando denique fuit, ut, quod licet, non licerit?*” §

*Christianity*:

Ex. But *Christ* and his *Apostles* say: “—— these are the things which defile a man: ——” || “—— this is the Will of God,—— that ye should abstain from fornication: ——” ¶ “—— whoremongers and adulterers God will judge. ——” \*\* “—— whosoever looketh on a woman to lust after her, hath committed adultery with her already in his heart.” ††

*COR.* *Quæ certe verba plausum illum merentur: “nec vox hominem sonat.” Siquidem vox est, quæ lumen naturæ superat* † †.

\* Pædag. l. iii. c. 2.

† Lev. xix. 29. Deut. xxiii. 17.

‡ Matt. xv. 19, 20. 1 Cor. vi. 9. 18. Heb. xiii. 4.

§ Orat. pro *M. Cælio*.

|| Matt. xv. 20.

¶ 1 Thess. iv. 3.

\*\* Heb. xiii. 4.

†† Matt. v. 28.

‡‡ Bacon—De Augment. l. ix. c. 1.

## ABUSES OF MARRIAGE.

## SEDUCTION.

(*Paley*, b. iii. pt. 3. c. 3.)

(190.) DEF. *Seduction* is compared to cheating a person of his most valuable property; and the seducer is accessory to the future crimes of the delinquent.

This injury may be divided into *three* parts:

- 1st. To the public, in depriving it of an useful matron.
- 2d. To the woman, by the disgrace it brings upon her.
- 3d. To her friends, by the affliction which it causes.

(191.) The worst species of seduction is with a promise of marriage which you know must be void.

The less criminal is an insincere promise of marriage, without the violation of chastity.

This is injurious:

- 1st. Because it prevents other addresses.
- 2dly. The unhappiness in consequence of the disappointment.
- 3dly. The disgrace attending the person deserted.

(192.) Though the promise be sincere, yet in some cases there is just cause to break it:

- 1st. Detection of unchastity.
- 2dly. Madness in the family.
- 3dly. Hereditary diseases not known at the time the promise was made.
- 4thly. Concealed defects of body.
- 5thly. Deceitful relation of fortune.

There are some other excuses which are made use of, in order to avoid performing a promise, but are by no means sufficient:

1st. Disappointment in fortune, where no mention is made.

2dly. A more advantageous offer.

3dly. A change or diminution of fortune.

The violation of a written promise, or a verbal one properly witnessed, is taken notice of by the *English* law, and the punishment is half the fortune of the deserted party.

The disapprobation of parents is a sufficient cause for deferring the marriage, but not of violating a person's promise.

(193.) REMARK. It is some security against seduction for the weaker sex to be apprized, that *every* man after the gratification of his passion cannot help *neglecting* the woman. It is an invariable law of nature, that when desire abates, aversion and contempt are its consequents, so that without the coercion of marriage, every woman's hopes and affections are unstable and illusory (ART. 177.).

## ABUSES OF MARRIAGE.

### ADULTERY.

(*Paley*, b. iii. pt. 3. c. 4.)

(194.) DEF. *Adultery* includes all the crimes of seduction, and besides these :

1st. The man does greatest injury to the husband.

2dly. As the woman entered into a vow of fidelity, he is accessory to her perjury.

*Revenge* for this crime is almost allowed of in Scripture :

Ex. "Jealousy is the rage of a man : therefore he will not spare in the day of vengeance."\*

The *intention* is nearly as criminal as the act.

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\* Prov. vi. 34.

COR. Hence all seducing behaviour is criminal.

(195.) The Scriptures\* make a *difference* between fornication and adultery—the latter accumulative crime on the former (ART. 33. *Cor.* 2.).

The *English* law at present only punishes this crime by a heavy fine.

In the *Usurpation* it was punished with death.

(196.) The common excuse for *keeping a mistress* is that the rite of marriage is a mere form, nowhere prescribed in Scripture, and therefore if a man consent to live with one woman, the same good purposes will be answered to society, as if they were legally married.

If it be the same thing, why do they not marry? But since the man has it in his power to leave the woman, it certainly is not the same thing to her; and it is a very material injury to the children, since the law of every civilized country makes a very great distinction.

(The *keeping a mistress* in the *Colonies*—and in the *East Indies*, where it is as general as the *keeping a horse*, is a sad violation and perversion of principles (ART. 189.).

Ex. A young man in the service of the *India Company*, on reaching his destination in the *East*, without delay *keeps a blackamoor mistress*, unlettered and untaught—from the chief, which also can be the only temptation, viz.: the indulgence of that appetite which he shares in common with the beasts.

COR. 1. Hence it behoves the *India Company* to encourage marriage amongst their junior servants in the *East* (*Locke*, PAGE 53.).

COR. 2. Hence it behoves the *Societies for the Propagation of the Gospel in Foreign Parts*, to note also the safeguards against the voluptuous passions amongst their own countrymen there.)

(197.) *Christianity* has laid down no particular form

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\* Levit. xx. 10. Matt. xv. 19. Heb. xiii. 4.

of marriage, it is true; but it has strictly prohibited persons cohabiting together *without marrying*\*, and has left the particular form to each country (ART. 33. *Cor.* 2.).

And as to marriage being a mere *form*, the same objection might be made to *bonds, indentures, &c.*

### OBSERVATIONS ON THE ABUSES OF MARRIAGE.

(198.) OBS. 1. Since the passion of love must always centre in a single object (ART. 178.), the *abuses of marriage* are deduced from the violation of that principle—the marriage and the condition must subsist together.

(199.) OBS. 2. But the regulation of the thoughts is alone effectual against the abuses of marriage, because habits of *acting* proceed from habits of *thinking* (*Locke*, PAGE 56.).

COR. Hence *Christ's* law: “whosoever looketh on a woman to lust after her, hath committed adultery with her already in his heart.” †

(The seat of moral defilements is the *heart*, i. e. the affections and disposition).

(200.) OBS. 3. The abuses of marriage produce habits of licentiousness and debauchery, which alienate the mind from all its duties to God, the Creator.—The indulgence of the lusts of the flesh, which man shares in common with the beasts, tends to render him at once equally bestial—“without God in the world.” ‡

COR. 1. Hence “blessed are the pure in heart: for they shall see God,” § i. e. while impure no man can see God (*Locke*, PAGE 189.).

COR 2. Hence whoredom is more destructive to society, both private and public, than all the other vices put together.

\* 1 Thess. iv. 3. Heb. xiii. 4.

‡ Ephes. ii. 12.

† Matt. v. 28.

§ Matt. v. 8.

COR. 3. Hence the safeguards against the voluptuous passions are too much neglected by legislators.

(201.) OBS. 4. In the human species, carnal desire is most vehement in the *male* (ART. 5.).

COR. 1. Hence, by nature, the *man* is the real and most guilty party in the abuses of marriage.

COR. 2. Hence the restraint should be laid on him.

COR. 3. Hence the *English* law is not in accordance with human physiology:

EX. 1. The *bastardy clauses* in the New Poor Law Act of 1834.

EX. 2. The *offences relating to marriage* in the Penal Code prepared by the *Indian* Law Commissioners.

(202.) SCHOL. Were human laws based on those of nature, the odium, disgrace, and punishment of seduction, bastardy, and adultery, would be inflicted on the man, who verily does the *injury*. The consent of the woman no more excuses it, than the consent of a person, who is cheated out of his property, excuses the fraud:

EX. To raise and inflame a woman's passions, till it is not in the power of her reason to control them, and then to take the advantage of that weakness, which the man who debauches her, has been the occasion of, is the same thing in effect, as to mislead a person's understanding, and then take the advantage of his ignorance to cheat him of his property.

COR. Hence legislators should distinguish the root of the *abuses*: but legislators are of the male and stronger sex—

. . . . . what thou bidst  
Unargu'd I obey . . . . .

*Milton.*

## OF THE PUBLIC USE OF MARRIAGE INSTITUTIONS.

(*Paley*, b. iii. pt. 3. c. 1.)

(203.) The *public use of marriage* is :

1st. The comfort and happiness of the individuals who contract.

2dly. Education of children.

3dly. The peace of society by assigning one woman to one man, and protecting his right in her by sanction of law.

4thly. The good government of society will be promoted from the subordination observed in families.

5thly. The encouragement of industry, by obliging each master of a family to provide for a certain number of persons.

(204.) Marriage was thought of so great advantage, that in *Sparta* it was disgraceful to live single, and in *Rome* any man who had three children was entitled to a privilege called *jus trium liberorum* ; and a bachelor could receive only half a legacy.

## OF THE MARRIAGE CEREMONY.

(205.) It is made a *religious ceremony* to impress a greater awe on the parties ; though it is no more connected with religion than any other contract (ART. 175.).

In the time of the *Usurpation* it was performed before a justice of the peace ; and it was appointed to be celebrated in churches by *Pope Innocent III.* in the thirteenth century.

(206.) The *nature* of the promise is solemnly calling on God to witness, and is equal to an oath.

(207.) The *obligation* is fidelity and promotion of mutual happiness, with a promise of obedience on the woman's part.

(208.) The duty of *obedience* in the *woman* is enjoined in *Christianity*\* (ART. 33. Cor. 2.):

1st. Because it was necessary that *one* party should submit, to obviate contests and strifes.

2dly. Because the woman is the weaker.

(209.) The oath may be *violated* either at the time or afterwards :

*At the time :*

1st. If the man have no affection for the woman.

2dly. If he does or intends keeping a mistress.

*Afterwards :*

1st. By adultery.

2dly. By behaviour tending to the misery of the parties.

(210.) *Query.* It may be asked whether *separation* ought to be allowed in case of ill temper, jealousy, drunkenness, &c. ?

*Answer.* It is lawful where the care of children is not impeded ; because,

1st. It is allowed by *Morality*, and because the municipal law allows it, it is therefore tacitly excepted in the contract.

2dly. It is free from the objection of divorce.

(211.) The common *defence of adultery* is that the parties have no other method of delivering themselves from the contract by law.

It may be answered :

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\* Ephes. v. 22. 24. Coloss. iii. 18. 1 Pet. iii. 1.



1st. That the guilt of fornication is incurred, which cannot be excused.

2dly. That an injury is done to the State, which permitted them to cohabit for the benefit of mankind in general.

(212.) By the *English* law there are six circumstances which incapacitate the parties from contracting :

1st. Kindred as prescribed by the Tables.

2d. Corporeal defects.

3d. Prior marriage.

4th. Want of age ; a boy under 14, and a girl under 12 years of age.

5th. Want of consent of parents or guardians, if the parties be under the age of 21 years.

6th. Insanity, if admitted by law.

(213.) That marriages may not be *invalid*, the *English* law (*Marriage Act*, the 6 & 7 W. IV. c. 85.) has determined the *modes* by which they may be contracted :

With the exception of marriages according to *Quaker* or *Jewish* usage, where both parties must be of the *Society of Friends* or both professors of *Judaism*, parties marrying may adopt any form of marriage they think fit, no declaration of faith, or observance of established ritual, being requisite. Marriages may be simply a civil contract, or religious ceremony, or both : and there are now *four* distinct modes by which they may be legally solemnized :

1st. In the accustomed way by licence from the archbishop or a surrogate, according to the rites of the Church of *England*.

2d. By banns, according to the rites of the Church of *England*.

3d. By certificate, without banns, according to the rites of the Church of *England*.

4th. Lastly, marriages may be contracted in any registered place of religious worship, or in the office of superintendent-registrar.

(214.) The *English* law is so careful to prevent improper marriages, that, by 6 & 7 W. IV. c. 85, persons unduly and knowingly solemnizing marriages, in any other than a church or chapel of the establishment, or registered building, or in absence of registrar, or in less time than act prescribes, (except by special licence,) are guilty of felony.

#### OBSERVATIONS ON THE USES OF MARRIAGE.

(215.) OBS. 1. Since *marriage* is productive of the greatest pleasures and the greatest pains, it is of the last moment to make a *right choice*—if friendship be the resultant, life will be rendered happy; if not, the reverse.

(216.) OBS. 2. But amidst the hypocrisies of civilized life, there is a difficulty in *pre-determining* the resultant—during courtship each party acts the character supposed most pleasing to the other, so that the season of courtship is only the season of mutual deception.

COR. Hence marriage is a lottery—where there is always a hazard let a person take what care he may.

(217.) OBS. 3. The system of modern education *doubles* the hazard—outward appearance—the gratification of the senses—the *videri quam esse* being the constituent principles:

Bred only and completed to the taste  
Of lustful appetite; to sing, to dance,  
To dress . . . . .

*Milton.*

(218.) OBS. 4. The early perusal of books of fiction—romances, plays and novels fix erroneous associations, engendering false valuations of human life:

EX. That every well-bred man is a *Sir Charles Grandison* or every pretty woman a *Pamela*.

*Bacon*\* observes: *amori plus debet scena, quam vita*: but in his time novel writers were not so abundant. It may be as well to ask *novel writers*, where is the wonder of a hero, if he possess “a handsome person, good address, exuberant health, constitutional courage, sound judgment, extraordinary brightness of parts, and a large estate?” To make him truly such, he should do more than common with only common endowments.

COR. Hence the very ground of novel writing is an intuitive absurdity.

(219.) OBS. 5. Since human life is governed by habit (ART. 29.), love, to be worth any thing, must be a habit—and habits are formed only by time and repetition (*Locke*, PAGE 55.).

COR. 1. Hence in marriage, it is the “long intimacy, the union of interests, the similitude of temper, the partnership of cares and troubles and pleasures” which form *true love* or the *pleasure of pleasing*.

COR. 2. Hence *conjugal affection* is that which makes a person feel a sensible delight in gratifying his wedded love, and in every thing conducive thereto, without any thought of *Self* except that very delight.

## DUTIES OF LINEAL RELATIONS.

(*Paley*, b. iii. pt. 3. c. 9, 10, 11.)

(See RUTHERFORTH’S INSTITUTES, c. 11.)

(220.) *Duties of parents* to children are of great importance in the class of duties from their general consequences; and which may be divided into two heads:

- 1st. Conduct during the parents’ life.
- 2d. Duty in the disposition of fortune.

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\* De Amore.

## OF CONDUCT DURING THE PARENTS' LIFE.

(221.) The duties *during life* may be divided into three:

- 1st. Maintenance.
- 2d. Education.
- 3d. Provision for their happiness.

*Maintenance :*

The reason of this is, that the wants of their infancy require some one to maintain them, which can fall on no one so properly as on those who were the cause of their production.

The Will of God our Creator is intimated to us, from the affection which is implanted in the parent for the children, and from the nourishment He has provided for the infant ; therefore those persons violate this duty who leave their children, when they might have provided for them by their own industry :

Ex. By enlisting.

*Education :*

Education is a preparation for the future part of their lives ; and parents are obliged to this duty, since if they do not perform it, the children will either be miserable themselves or troublesome to others :

They will be *miserable* : because if they be possessed of fortune, they will be destitute of the means of enjoying it ; if they be not, they will be destitute of the means of subsistence.

They will be *troublesome to others*, because they will not be furnished with principles to direct their conduct in society.

(222.) This duty is *violated* in different ways by persons in different situations in life :

$\alpha$ . By persons in the *lowest class*, if they do not inure

their children to labour, or if they keep them from school in order to receive the profit of their labour, when they could do without it.

β. By persons in the *middle class*, if they neglect to bring them up to liberal professions, and do not leave them sufficient to live without them.

γ. By persons in the *higher class*, who do not give them an education suitable to their rank and fortune.

*Provision for their happiness :*

The provision for the happiness of children is :

1st. Fixing them in a situation agreeably to their manner of life and expectations.

2dly. Giving them a competent subsistence for such a situation, and attending to their morals.

Till these circumstances are answered, a man is justly excused from public subscriptions ; acts of liberality, &c.

(223.) But the *morals* are the most essential thing to be attended to, and are best effected by the parents' own *example*, and adapting their particular situation in life according to their particular dispositions :

Ex. 1. Thus those of an avaricious disposition ought to be fixed in a liberal profession, that their ideas may be enlarged.

Ex. 2. The voluptuous and profligate ought to be placed in the country, where there are fewest temptations.

(224.) The *duties of parents* to their children are enforced in *Christianity*\* (ART. 33. *Cor.* 2.).

(225.) SCHOL. It is not too trifling to note—to teach children a good seat on a horse, which they may easily learn, but grown up persons never can, though they may often regret the want of it both for their uses and pleasures.

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\* 1 Tim. v. 8. Ephes. vi. 4.

## OF DUTY IN THE DISPOSITION OF FORTUNE.

(226.) In the duties of parents *in the disposition of their fortunes* it is urged by some, that a man has a right to do what he will with his own: but this is only when he disposes of it consistent with reason, viz.:

1st. The first obligation is to allow to each what the exigency of his situation requires.

2dly. To answer the reasonable expectations of each, which ought to be determined by custom:

Ex. As in giving the eldest son a greater share.

(227.) *Query.* Whether a father ought to abridge any thing from a son's fortune, who has acquired a fortune by his industry?

*Answer.* If the exigencies of the other children do not require it to be otherwise, he ought to have his share; because he would have depended on this, if he had not succeeded, and justice entitles him to the gain of his industry. If the exigencies of the other children do require it, he ought to be abridged. But the difficulty is best solved by asking the person's consent.

(228.) A parent is justified in *punishing* the disobedience or contumacy of a son, by a diminution of fortune, as it may deter others from the same practice: but it ought not to be carried too far.

(229.) The duty of parents in *choosing trades* for their children is, to point out the consequences of a child's conduct; and it is the duty of a child to endeavour to convince himself, that by complying with his parents' advice, he will advance his own happiness.

## OBSERVATIONS ON THE DUTY OF PARENTS.

(230.) OBS. 1. Since it is a matter of importance in what manner children are brought into the world, and

what parents they have, it follows (paradoxical as it may seem) that there are *duties of parents* to children even *before* their birth.

(231.) OBS. 2. The duties of parents are *pre-violated* :

$\alpha$ . By unlawful amours, which how much soever a sport to the parties engaged, may prove death, or what is worse than death—a miserable life, to the unhappy produce of them (ART. 196.).

$\beta$ . By entailing hereditary diseases, viz. madness, consumption, asthma, weaknesses of body and mind, &c. ; or by entailing poverty, a disreputable place in society, &c.

$\gamma$ . By providing mothers incapable either of instruction or example—who know nothing but trifling dissipation and amusement.

(232.) OBS. 3. There is one point of paramount importance in the duties of parents to children *after* birth—the earlier the better, viz. to habituate the moral sense to discern between the desire of excelling and the desire of excellence.

(233.) OBS. 4. The desire of *excelling* is not the same with the desire of *excellence*—the distinction between them is pretty nice, and commonly overlooked, but there is a just and real one :

*Desire of excelling :*

EX. Men are forward enough to aspire at great things, but then it is generally, whether they know it or no, only to give them a preeminence and superiority over others ; and they have so little fondness for the heights they aspire to, that they would be very well contented to stand where they are, provided they could be sure that nobody else would ever come up to them.

COR. 1. Hence, he whose passion lies in surpassing, has a separate interest from that of all mankind, on whom he must look with an eye of envy, rivalry, and con-

tempt; and therefore can never heartily love them (ART. 169.).

COR. 2. Hence, from the fondness of excelling naturally result “envy, contention, injustice, cowardice, malevolence, vanity, indolence, selfishness, impiety, and all the painful passions.”

*Desire of excellence :*

EX. But he that desires excellence can take nothing else in compensation for it: to see others without it, affords him no gratification, nor is his joy in the attainment abated by the success of others, for he regards only the intrinsic value of the possession, without envying or despising the acquisitions of his neighbours.

COR. 1. Hence, he whose passion lies in a glowing ardour for things excellent, will rejoice to behold whatever is so in any degree, and stand ever ready to increase it always and everywhere; and as a man will never get an unshaken seat in the saddle who never rides an unruly horse, so he will look on the necessary competitions and contrary attractions of mankind, as so many trials and temptations for fixing this very desire of excellence.

COR. 2. Hence, from a true love of excellence result “equity, peace, justice, courage, benevolence, humility, application, disinterestedness, piety, and all the virtues.”

COR. 3. Hence, as a tree is known by its fruits, so are these two desires by their contrary resultants.

COR. 4. Hence the immense advantage in education, to keep the moral sense from running into a comparison of persons—so that there be a strong desire of excellence but none of excelling.

(The system of modern education works just the *contrary* way.) .

(234.) SCHOL. If men could thus bring their desires to fix on the attainment of real *excellence* without regard to what is done by others, they would lose nothing by it even in respect to that superiority the world (—a world of



vanity, where all things are estimated by comparison) are so fond of, for whatever distinction is within their power, they would attain by constantly doing their best.

(235.) *Christianity* has declared *charity*, i. e. *benevolence* (ART. 169.), to be the greatest and the sum of all human excellencies (ART 33. *Cor.* 2.):

EX. "And above all these things, put on charity, which is the bond of perfectness,"\* i. e. *quia virtutes omnes simul colligat et revincit* †.

COR. 1. Hence, *si animus cujuscumque fervore charitatis veræ incendatur, ad majorem perfectionem evehetur, quam per universam ethicam doctrinam* † (ART. 172.).

COR. 2. Hence, charity is the greatest and the sum of all the other virtues equally as it is the means of acquiring them (ART. 27.).

### THE RIGHTS OF PARENTS.

(*Paley*, b. iii. pt. 3. c. 10, 11.)

(See RUTHERFORTH'S INSTITUTES, c. 11. § 3, 4, 5, 6.)

(236.) The *rights of parents* diminish as the children grow up, and consequently the duty of the child to obey is less:

α. In childhood they are bound to implicit obedience to the parents' advice, being unable to judge for themselves, except in those principles of justice they have already imbibed.

β. When the child is grown up, though he lives in the same house, yet the duty of paying implicit obedience does not continue. He ought to suggest those reasons, which make him differ in opinion, with deference and submission.

γ. If the child live separate from the parent, the duty is more relaxed; the tie of gratitude being then most powerful; and if the parent be in want of any worldly comfort, he is to do his utmost to supply that want.

\* Col. iii. 14.

† Bacon—De Augment. l. vii. c. 3.

With regard to *marriage*, the conduct of parent and child ought to be the same as in the choice of trade (ART. 229).

(237.) The *duty of children* to their parents was thought worthy of specification in the *Decalogue* \*. It is commanded in *Christianity* †; and *super-enforced* by the example of *Christ* himself ‡ (ART. 33. *Cor.* 2.).

An amiable picture of a son and father, amongst the *Heathens*, is the *Roman* poet *Horace* and his father, as pourtrayed by the former :

Ex. *Atqui si vitiis mediocribus ac mea paucis  
Mendosa est natura, . . . . .  
. . . . .  
Causa fuit pater his; . . . . .  
. . . . .  
Atque alios legere ad fastum quoscunque parentes  
Optaret sibi quisque; meis contentus, . . . . .  
. . . . .*

Horat.

(238.) We have considered the duty of parents and children in a *moral* sense : but the law of *England* has considered the reciprocal duty of maintenance ; lineal relations being obliged to maintain each other in the case of exigence :

Ex. 1. Parents of poor children unable to work, are bound to provide them with necessaries ; and a child is compelled, if of sufficient ability, to provide for a parent's support—and this he must do, let the progenitor be unworthy as may be.

Ex. 2. A father has a right to the profits of his son's labour, while he lives with him, but not to his separate estate, whether obtained by industry, bequest, or marriage.

(239.) The *English* law formerly made a liberal provision for *bastards*, i. e. for children born out of wedlock, or at the end of nine months' absence from the husband. By

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\* Exod. xx. 12. † Matt. xv. 4—6. Ephes. vi. 1. ‡ Luke, ii. 51.

the oath of the woman, the man was responsible for the maintenance of the child: but he might dispute the justice of the accusation by giving proper security.

But by the *Poor Law Act* this law was repealed as to future cases of bastardy. Mother of future illegitimate child is bound to maintain it so long as she remains unmarried, or a widow, till it attain the age of 16 years. If unable to maintain it, and the child become chargeable to the parish, the guardians or overseers of any parish or union, may, if they think proper, apply to the court of quarter sessions (or by 2 & 3 Vict. c. 85, to a special or petty session of the division or borough) for an order on the putative father for its support. But no order to be made unless the evidence of the mother be corroborated in some *material particular* by other testimony. The maintenance to continue in force not longer than till the child attains 7 years of age; and the monies paid by the father to be applied solely to the support of the child, not the mother (ART. 201. *Cor.* 3.).

COR. 1. Hence bastards are *now* oftener made away with, more neglected, and obtain a smaller degree of benevolence (*Locke*, PAGE 196.).

COR. 2. Hence an error of the *Whig* Administration in legislation (ART. 5.).

(240.) A bastard has no rights but what he can acquire; being in the eye of the law, the son of nobody, he cannot be heir to any one, nor have heirs but of his own body. He has, legally, no name except that he gains by reputation.

By the civil law, subsequent marriages of the parties legitimated the offspring.

By the *English* law, there must be an Act of Parliament.

(The term *bastard* was not formerly disgraceful, *William the First* having called himself *Gulielmus Bastardus*.)

## SECTION V.

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### DUTIES TO GOD.

(*Paley*, b. v. c. 1.)

(See RUTHERFORTH'S INSTITUTES, c. 10. § 6.)

(241.) *Duty to God* is not only proved by *Revelation*, but may be deduced from *the Light of Nature*.

It consists of *two* parts :

1st. Prayer and intercession.

2d. The reverent mentioning of Him.

(242.) *Prayer* may be considered :

1st. As entreaties for future blessings.

2dly. Thanksgivings for past.

OF THE DUTY AND OF THE EFFICACY OF PRAYER.

(*Paley*, b. v. c. 2, 3, 4, 5.)

(243.) The *duty of prayer* may be collected :

1st. From the nature of man, as the human affections, especially when strong, have a tendency to express themselves externally.

2dly. From analogy, as we find a natural impulse to treat our superiors with respect, and to expect the same from our inferiors, therefore we should show greater respect to the Deity.

3dly. From the necessity that mankind should make a

due acknowledgment of their dependence on the Deity, and keep up a sense of His Universal Providence.

COR. 1. Hence the *manner* of performing prayer is the *sine quâ non*—praying with faith, i. e. with a just sense of the divine Attributes.

COR. 2. Hence (and especially from His *Benevolence* and *Prescience*), the attention will be directed more towards God—the *object* of prayer, than towards the *desire*.

COR. 3. Hence the absolute resignation, and the attention undistracted.

OBJECTION. It is objected to the *efficacy* of prayer, that if it be consistent with the justice and wisdom of God to grant our request, we might expect it to be granted without prayer: and if it be inconsistent, He would not grant it by prayer.

ANSWER. It may be consistent with the attributes of God to grant to prayer, what He would not have granted without, for the following reasons:

1st. Because God grants to prayer, that which He has already made our prayer a natural means to obtain.

2dly. Because the favour granted is likely to produce a better effect in the intercessor by increasing his gratitude.

OBJECT. It may be said that in common life favours asked for are not received with greater gratitude than those unasked.

ANSW. But we should consider that the relation between God and man, and between man and man, is very different, because we do not see His interference with the world, and therefore we should be apt to attribute them to chance or accident.

3dly. It is necessary that God withhold his favours, that a sense of dependency be kept up.

4thly. Amendment of life, because a person will prepare himself for prayer.

COR. 1. Hence prayer has an effect on *practice*.

COR. 2. Hence prayer will either make a man leave off sinning, or sin will make him leave off prayer.

COR. 3. Hence, *duo imprimis tempora observentur: alterum, quando animus optime fuerit ad rem dispositus; alterum, quando pessime; ut ex priore, plurimum in via promoveamus: ex posteriore nodos obicesque animi contentione strenua deteramus, unde tempora media facile et placide labentur* \*.

(244.) Prayer is required as a *duty* †, and assured of *efficacy* ‡ in *Christianity*; it is *super-enforced* by *Christ's* § example (ART. 33. *Cor.* 2.):

Ex. There are several instances in Scripture of the duty and efficacy of prayer:

α. Of prayer in general—Matt. vi. 5—15, 18; vii. 7—11. John, xiv. 13, 14. Rom. xii. 12. 1 Thess. v. 17.

β. Of prayer for particular favours by name—Luke, xxii. 42. 2 Cor. xii. 8. 1 Thess. iii. 10.

γ. Of prayer for national blessings—1 Tim. ii. 1—3.

δ. Of intercessions for others—John, xvii. 9, 15, 20, 24. Acts, xii. 5. James, v. 16.

ε. Of the repetition of unsuccessful entreaties—Matt. xxvi. 42, 44. Luke, xviii. 1—8. 2 Cor. xii. 8.

ζ. Of kinds of prayer enjoined—Matt. vi. 5—15. Acts, ii. 1. Heb. x. 25.

η. Of prayers in distresses and death—Ps. l. 15. Luke, xxii. 44; xxiii. 46. Acts, vii. 59. James, v. 13.

θ. Of the manner of performing prayer—Matt. xxi. 22. James, v. 15. (ART. 243.).

COR. 1. Hence *Revelation* removes all doubt and scruple from the *Light of Nature*.

\* Bacon—De Augment. l. vii. c. 3.

† Matt. vii. 7. Luke, xi. 2; xxi. 36. Ephes. vi. 18. 1 Thess. v. 17.

‡ Matt. vi. 18; vii. 7—11. John, xiv. 13, 14.

§ Matt. xxvi. 44. Luke, v. 16.

COR. 2. Hence (and “blessed be the God and Father of our Lord Jesus Christ!”\*), we have *authority* to pray, to expose all our wants, desires, joys and griefs to God our Creator, and that He will hear us and help us.

(245.) The *manner* of performing prayer is commanded in *Christianity*†; *super-enforced* by *Christ's* ‡ example (ART. 33. Cor. 2.).

There are *three* different kinds of prayer :

- 1st. Private prayer.
- 2d. Family devotion.
- 3d. Public worship.

The practice of any one of them will not excuse a person from the performance of the others ; for each has its separate use.

#### OF PRIVATE PRAYER.

(*Paley*, b. v. c. 4.)

(246.) The uses of *private prayer* are :

1st. A man may have many wants, which he cannot express in public.

2dly. This being voluntary, is always accompanied with more thought and reflection, and fixes the impressions of religion much stronger in our mind.

COR. Hence those have been found the best men who have been most assiduous in this kind of prayer.

3dly. It is the best time for self-examination.

(247.) The most natural form of private prayer is *ejaculatory addresses to God*, especially of the *laudatory* kind. The ejaculations must be short, extemporaneous, *heart-felt*, and *pro re natâ*; as often as either the reflections which rise up in our minds, let them come from what quarter

\* 1 Pet. i. 3.

† Matt. vi. 8. Heb. xi. 6.

‡ Mark, xiv. 36.

they may; or the objects and incidents which seize our attention, prompt us to utter them; which in a religious disposed mind will be constant—he turns his thoughts towards God, the Author and Giver of all things, whenever they are not taken up with some particular engagement.

These exercises may be made in any posture, in any place, or in any situation.

Ejaculatory addresses tend more than any thing to preserve the habit of piety, to resign ourselves to the will and providence of God, to disburthen us of many cares—cares not properly our own, how apt soever they may be to intrude on us, and we to admit them: but which in truth are none of our concern.

EX. The anxieties of expectation; solicitude about success, and disappointment, &c.

(*Profane swearing* has a like efficacy, only works the *contrary* way.)

COR. Hence its great criminality.)

(248.) Private prayer is commanded in *Christianity*\*; and *super-enforced* by the example of *Christ*† himself (ART. 33. Cor. 2.).

#### OF FAMILY DEVOTION.

(*Paley*, b. v. c. 4.)

(249.) The use of *family devotion* is chiefly for the sake of example to children and servants, who will not always exercise private prayer, and whose attention you cannot command so well in public worship, and it proves, by the example of the master, the seriousness of religion.

(250.) The form of family devotion which, for the shortness, approximates to the *ejaculatory* kind, is *grace at meals*. This exercise tends to cherish the habit of referring those things to the gift of Providence which we

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\* Matt. vi. 6. Luke, xxi. 36. Rom. xii. 12.

† Matt. xiv. 23. Luke, v. 16.



receive from natural causes. And since Providence is the main support of both philosophy and religion, it is no small service it achieves, by making us, conjointly with our families, at the opening and close of every meal, cast a glance beyond the stream of second causes up to their original fountain—the One First Cause (ART. 243.).

(251.) Grace at meals is commanded in *Christianity*\*; and *super-enforced* by *Christ's*† example (ART. 33. *Cor.* 2.).

The *Heathens* were constant to these offices, and would have shamed *Christians*:

EX. 1. . . . θεοῖσι δε θῦσαι ανωγει  
 Πατροκλον ὄν ἑταιρον, ὁ δ' ἐν πυρι βαλλε θυηλας.  
 Homer.

EX. 2.  
*Postquam prima quies epulis, mensæque remotæ,*  
 . . . . .  
 . . . . . *et in mensâ laticum libavit honorem.*  
 Virgil.

## OF PUBLIC WORSHIP.

(*Paley*, b. v. c. 4.)

(252.) *Public worship* is necessary:

1st. Particularly to the lowest class, who otherwise would have no religious worship at all.

2dly. It is the only opportunity they have for religious instruction.

(253.) These reasons only extend to the lower class, but there are others, which are general:

1st. The uniting together in praising the Deity increases the social affections.

2dly. It puts men in mind of their natural equality, by considering their common relation to the Deity, and con-

\* 1 Cor. x. 31. Eph. v. 20. 1 Tim. iv. 4.

† Matt. xiv. 19; xv. 36; xxvi. 26, 27. Mark, vi. 41; viii. 6.

sequently produces humility in the superior and contentment in the inferior classes.

COR. Hence it is absurd *then* to assert privileges and keep up worldly distinctions.

3dly. If the superiors attend public worship, it is the likeliest way to make the inferiors follow the example.

4thly. Family devotion and public worship strengthen *all* the better affections, by the influence of sympathy (ART. 249.).

(254.) It is commanded in *Christianity*\* (ART. 33. Cor. 2.).

The *Romish* church carry this very far :

Ex. 1. Ministers giving persons absolution.

Ex. 2. Praying souls out of purgatory, &c.

OF THE NECESSITY OF A FORM OF PRAYER.

(*Paley*, b. v. c. 5.)

(255.) The advantages attending a stated *form of prayer* are :

1st. It will prevent extravagant and improper addresses to the Deity.

2dly. It supplies in some measure the imperfections of the deliverer.

3dly. It will prevent the confusion of extempore prayer :

$\alpha$ . Because if *extemporary prayers* were used, no person could *pre-determine* what manner of spirit—what posture to cast his mind into, preparatory to what follows.

$\beta$ . Because the congregation being ignorant of each petition before they hear it, are confounded between their attention to the minister, and to their own devotion.

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\* Matt. xviii. 19, 20. Heb. x. 25.

γ. Because no person would have time to digest one prayer, before another was begun :

Ex. A man delivers a prayer which no one of the congregation has heard before—in which therefore they cannot be said to *join*, for as the speaker continues his prayer without any considerable stop, the audience cannot revolve, consider, or digest any one portion, before he has got perhaps to a proposition or subject quite distinct and new, there can therefore be only confusion and perplexity in their minds:

COR. 1. Hence *joint* prayer—which is prayer in which all *join*, is impracticable.

COR. 2. Hence the congregation will go away little more edified by it than by hearing *Kean* repeat a fine prayer out of a tragedy they have never read.

COR. 3. Hence in extempore prayer, people may be much entertained and much filled with admiration, but it is momentary, and attended with little or no improvement.

COR. 4. Hence also in *extempore preaching, mutatis mutandis*, the effects are the same (ART. 255.).

The disadvantages are :

1st. A form of prayer compiled at one time may be unfit at another, owing to the change of language and other circumstances.

2dly. The frequent repetition of the same words causes inattention.

(256.) But the advantages far exceed the disadvantages; and it is authorized though not commanded in Scripture (ART. 33. *Cor.* 2.):

Ex. As in the *Lord's prayer* \*.

(257.) No person denies but a form more expressive of

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\* Luke, xi. 1—4.

the divine Attributes might be compiled than that of the Church of *England*: but the danger of an alteration has deterred the Legislature.

The *length* of the Liturgy is complained of: but it was intended to be read at three separate times—*Morning Prayer* at 6; *Litany* at 10; and *Communion Service* at 12 o'clock.

(258.) The prayers of the *English* form of *Liturgy* frequently concluding: *through* or *for the sake of Jesus Christ*, may lead to two erroneous suppositions:

1st. That the *Redemption* of mankind was the effect of a milder and more benevolent being propitiating the favour of another who was harsh and austere; who was before incensed at the human race, and had cast them off.

2d. That God the Father has no immediate regard for mankind, but bestows all His blessings purely to gratify His Son.

These suppositions would be erroneous:

From the *Light of Nature*:

1st. Because the *first* is incompatible with the divine Attribute of Benevolence.

2dly. Because the *second* is incompatible with *that* and also with the Attribute of Self-Sufficiency.

From *Revelation*:

1st.—2dly. Because the *first* and *second* are both incompatible with the Scripture, viz.: that the *Redemption* of the world was itself a thing provided by God the Father; and was the effect of *His* care and goodness towards His human creatures:

Ex. "For God so loved the world, that he gave his only begotten Son, that whosoever believeth in him should not perish, but have everlasting life."\* Whatsoever ye shall

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\* John, iii. 16.

ask the Father in my name, (i. e. by His appointed medium, viz.: the *Redemption*,) he will give it you.”\*

COR. 1. Hence the error of the *Methodists*, *Evangelicals* and other pious men of similar turn, in *super-insisting* on the *Redemption alone* in their religious services; inasmuch as the *Redemption* though the principal, it is not the only subject of religious services.

COR. 2. Hence the persons of this turn of mind are so zealous for the Son, that they totally overlook the Father—the source and origin of the *Redemption* and of every blessing.

(259.) The expression: *through* or *for the sake of Jesus Christ*, approximates something to the nature of an oath:

Ex. So help me God in my present prayer as I shall strive to attain the perfect love of God, by the sole and necessary means He Himself has appointed, *by* the all-sufficiency of *Jesus the Christ*.

## OF THE SABBATH DAY.

(*Paley*, b. v. c. 6, 7, 8.)

(260.) The obligation to observe the *time* of public worship is:

1st. Natural.

2dly. Revealed.

*Natural* is thus deduced:

1st. If there be a necessity for that worship, there is a necessity that there should be an appointed time.

2dly. The relaxation from labour, whether you consider the actual rest, or the prospect during labour.

3dly. The respite to the toil of brutes (ART. 173. *Cor.* 1.).

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\* John, xvi. 23.

*Revealed* thus deduced :

1st. It appears that the *Sabbath* is commanded to be kept by the Scripture.

This day amongst the *Jews* was on *Saturday*, the *seventh* day being the day in which the Deity ceased from His work of creation ; and because the *Israelites* were delivered from their bondage in *Egypt* on that day.

The *seventh* day was sacred also amongst the *Heathens* :

EX. 1. Εβδοματη δ' αυθις λαμπρον φαιος ηελιοιο.

Hesiod.

EX. 2. Εβδοματη δ' ηπειτα κατηλυθεν ιερον ημαρ.

Homer.

The *religious* purpose, or the *resting* day, is equally secured on whichever day of the week the *Sabbath* falls : but since the great fact of *Christianity* is *Christ's Resurrection*, which took place on the *first* day of the week, the observance of that day is best adapted to express the *peculiar* character of his religion.

COR. 1. Hence *Sunday* is termed η κυριακη ημερα\*.

(It seems to have been so firmly settled in the *Apostolic* ages as to have obtained a name then.)

COR. 2. Hence we keep our *Sabbath* on *Sunday*, the *first* day of the week, because on that day our *Lord* arose from the dead ; which was the greatest blessing to *Christians*, as the deliverance was the greatest to the *Jews*.

COR. 3. Hence it preserves the knowledge and visible profession of the *Christian Religion* in the world, when, notwithstanding the great differences there are amongst *Christians* in other matters, they yet all agree in observing this day in memory of *Christ's Resurrection*.

2dly. We find our Saviour † himself preparing the *first Christians* for an alteration of the *Sabbath* day.

\* Rev. i. 10.

† Matt. xii. 8. Luke, vi. 5 ; xiii. 15, 16.

3dly. We find the *Apostles*\* frequently assembling for the sake of religious worship on the *first* day of the week.

4thly. We cannot collect from the Scriptures the manner in which the *first Christians* observed this day: but it appears from the *Fathers*, that they appropriated it to religious worship, and admiring the works of the creation:

EX. *Justin Martyr* †, A. D. 140, says: και τη του ηλιου λεγομενη ημερα παντων κατα πολεις η αγρους μεγαυτων επι το αυτο συνελευσις γινεται.

COR. Hence the assembling on the *first* day of the week for public worship and resting on that day, seem *both* to be of *Apostolic* authority, because the former (πολεις η αγρους) would be impracticable without the latter.

(261.) The observance of the Sabbath is *violated*:

1st. By such engagements as prevent our attendance on public worship.

2dly. By such acts as are usually omitted on that day.

The distinction between these two heads is, that the *first* means such acts as are innocent in themselves: the *second* such as are criminal.

(262.) This day was so rigorously observed by the *Jews*, that they abstained from all work, even from self-defence on this day. The general spirit of the *Jewish* Sabbath is expressed in Isaiah lviii. 13—and it was owing to the rigour of the *Jewish* law, that *Christ* compiled a new one.

(263.) The observance of the Sabbath is enforced by the law of *England*:

EX. 1. Thus all contracts made on *Sunday* are void.

EX. 2. All goods exposed to sale on that day are forfeited to the poor, &c.

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\* John, xx. 19, 26. Acts, xx. 7. 1 Cor. xvi. 2.

† Apol. ii. 98.

OF THE REVERENT MENTION OF THE  
DEITY.

(*Paley*, b. v. c. 9.)

(264.) The *reverent mention of the name of God* our Creator is necessary :

1st. A light and frequent repetition takes off the awe, which should arise in our minds, whenever He is mentioned.

2dly. The sense of awe is the effect of habit—levity in speaking of Him destroys this habit (ART. 247.).

3dly. The criminality of mentioning His name with levity appears from the 3d commandment, in which commandment the Deity seems more personally concerned than in the others.

The most criminal part of this sin is *profane swearing*, which is the more criminal, because a sin without a temptation ; and the frequent use of it implies great malignity and contempt of the punishment denounced : and as the unlawfulness of swearing rests *mainly* on the prohibition of Scripture, it is a criterion by which we may best estimate the effect which Scripture has on any man :

COR. Hence those persons who in their maledictions, invoke the curses of the Deity to fall on those with whom they are displeased—if they are *sincere*, discover the most inveterate malice of temper—if they are *not sincere*, the most impious contempt of God Almighty's punishments.

(265.) Swearing is forbidden in *Christianity* ;\* *Christ* † extends the prohibition to every thing associated with the idea of God (ART. 33. *Cor.* 2.).

The *Jews* were very remarkable for mentioning the name of God with reverence, and used generally to add another sentence : *blessed be His name*.

The *Mahometans* are so scrupulous, that they preserve every paper on which the name of the Deity is written.

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\* Matt. v. 34. James, v. 12.

† Matt. v. 33—37.



*Profane swearing* was common amongst the *Heathens*, and abounds in the writings \* of their philosophers and moralists.

(266.) We ought also to treat with great respect whatever concerns Him :

Ex. 1. As our behaviour in public worship.

Ex. 2. We ought not to behave indecently in places, where the form is different from our own, though it be ever so ridiculous.

(267.) The *English* law lays a penalty for profane swearing, for a labourer 1s.; for a yeoman 2s.; and for a gentleman 5s.; levied on oath before a justice of peace: and in default of payment, the offender may be sent to the House of Correction for 10 days.

#### OBSERVATIONS ON THE DUTIES TO GOD.

(268.) OBS. 1. *Human nature* is so constituted, as to feel certain affections on the sight or contemplation of certain objects.

(269.) OBS. 2. Of the several objects, some excite the affection of *love*.

(270.) OBS. 3. *Goodness* is the object of love—a *fortiori* perfect goodness, the highest, the adequate object of love.

(271.) OBS. 4. “There is none good but one, that is God.” †

COR. 1. Hence the highest, the adequate object of love is God.

COR. 2. Hence, “thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind. This is the first and great commandment.” ‡

(272.) OBS. 5. “There is no fear in love; but perfect love casteth out fear: because fear hath torment: he that feareth is not made perfect in love.” §

\* Plato; Epictetus, &c.

† Matt. xix. 17.

‡ Matt. xxii. 37, 38.

§ 1 John, iv. 18.

COR. 1. Hence the perfect love of God absorbs every other consideration—it is the whole of religion.

COR. 2. Hence “whom have I in heaven but thee? and there is none upon earth that I desire beside thee.”\*

(273.) *Authority* and *example* are more operative on human nature than *reasoning*:

Ex. The single text: “sufficient unto the day is the evil thereof,”† is more conclusive than the *Stoical* maxim: *in seipsum habere maximam potestatem; inæstimabile bonum est suum fieri*‡, supported by *Seneca*, *Epictetus* and all the *Heathen* philosophers.

COR. Hence those who have most exercised their Reason, will be the first to acknowledge the want and value of Revelation.

(274.) OBS. 6. “Jesus saith—I am the way, and the truth, and the life: no man cometh unto the Father but by me.”§ “Abide in me, and I in you. As the branch cannot bear fruit of itself, except it abide in the vine: no more can ye, except ye abide in me”—“for without me ye can do nothing.”|| “Whoso keepeth his word, in him verily is the love of God perfected: hereby know we that we are in him”¶

COR. 1. Hence, *Christianity* is the sole necessary means of attaining the perfect love of God.

COR. 2. Hence, *cunctorum laborum ac peregrinationum humanarum sabbatum ac portum nobilissimum*\*\*.

COR. 3. Hence, from the divine *Equity*, its ultimate universality.

(275.) OBS. 7. “Jesus answered—Except a man be born—of the Spirit, he cannot enter into the kingdom

\* Ps. lxxiii. 25.

† Matt. vi. 34.

‡ Seneca—Epist. lxxv.

§ John, xiv. 6.

|| John, xv. 4, 5.

¶ 1 John, ii. 5.

\*\* Bacon—De Augment. l. viii. c. 3.

of God.”\* “—how much more shall your heavenly Father give the Holy Spirit to them that ask him.”† “—if ye through the Spirit do mortify the deeds of the body, ye shall live.”‡

COR. Hence the *Christian μετανοια*, i. e. the perfect love of God by the alone aid and operation of His *Spirit*, given to prayer, through *Jesus His Christ* (ART. 24.).

(276.) OBS. 8. Since men’s actions are and ought to be governed by habit, the love of God must be a habit—a *habit* acquired by each man’s own industry, but God’s *Spirit* co-operating with that industry (ART. 33. *Cor.* 1.).

COR. Hence the provision of divine assistances is a consideration of the last moment—especially to those who have a due sense of the weakness and corruption of human nature, and its manifold temptations.

(277.) OBS. 9. Habits are acquired :

1st. By internal influence.

2dly. By external influence.

*Internal influence:*

Because “God is a spirit; they that worship him, must worship him in spirit and in truth,” § i. e. sincerely and adequately (ART. 243. *Cor.* 1.).

COR. Hence the *spirit* of religious services—

Most operative toward the *habit* of the perfect love of God :

EXAMPLES :

α. In learning—the spirit of “a little child,” || i. e. the openness and indifference; not the ignorance of a child.

β. In entreating—the spirit of resignation (ART. 242.).

γ. In thanksgiving—the spirit of sincerity and joy (ART. 242.).

COR. Hence the necessity of a form of prayer—preparative to what manner of spirit (ART. 255.).

\* John, iii. 5.

† Luke, xi. 13.

‡ Rom. viii. 13.

§ John, iv. 24.

|| Mark, x. 15.

*External influence :*

Because man is an animal more sensitive than rational, his conduct if not his judgment is guided and drawn more by the senses than by speculation.

COR. Hence the *use* of religious services—

Operative toward the *habit* of the perfect love of God :

## EXAMPLES :

α. By authority :

EX. The name of *Jesus* the *Messias*—"none other name under Heaven given among men, whereby we must be saved"\* (ART. 274.).

(The *name* excites the authority, by association.)

COR. Hence the *Gospel* is operative by its *authority*—the *sine quâ non* of *Christianity* (ART. 273.).

β. By example :

EX. The character of *Jesus* the *Messias*—that *evidence* of *Christianity* which determines the Philosopher.

NOTE. The exemplar is *Jesus*—the Son of God in human flesh ; "the express image of the invisible God ;" † in whom the Divine perfections are brought nearer to our view ; and what is the best of all, within the reach of our imitation :

EX. The *example* of *Christ* (where we can imitate it, and it is there only that our hope of taking him for our pattern is necessarily placed) is *practicable*, and suited to the conditions of human life.

COR. Hence *Bolingbroke's* ‡ rhodomontade of *theological familiarity and talk of imitating God*, independently of its irreverence, is untenable.

γ. By language, gestures, repetitions :

EX. Prayer : private—family—public (ART. 243.).

δ. By rites and ceremonies :

\* Acts, iv. 12.

† Coloss. i. 15. Heb. i. 3.

‡ Fragment iv.

Ex. Baptism; the Lord's supper.

ε. By distinction of orders :

Ex. Deacons; priests; bishops.

ζ. By distinction of times :

Ex. Sunday; Christmas-day; Good-Friday.

COR. *Thursday* may be as good a day as *Sunday*—but it is well known, how backward people are to find a time of their own accord for matters that require serious attention, which they apprehend may be done at any time; so that it is absolutely necessary to appropriate some particular *day* to an affair of such importance (ART. 260.).

η. By distinction of places :

Ex. Chapels; churches.

COR. 1. Hence it is an idle question of those who ask: *what shall I learn by going to Church?* :

1st. Because the principal use of going is not so much to learn as to fix what was learned before, by that hidden power with which external objects act on all classes of mankind.

2dly. Because the general consequences of the example are good :

Ex. My neighbour the cobbler stays away and goes to the ale-house, an employment less useful than that he follows on other days; and he thinks he copies my example herein, since we both agree in the circumstance of *not* going to church.

COR. 2. Hence it was unphilosophical in *Hobbes* (a great name in philosophy—the father of *English* psychology): “who frequently attended the chapel, and received the sacrament, yet he occasionally turned his back on the preacher, observing that he could teach him nothing but what he knew before”\* (ART. 253.).

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\* Lemprière—Univ. Biog.

θ. By distinction of vestments; utensils:

Ex. Surplices; mitres; fonts.

ι. By harmony:

Ex. Music; singing; chanting.

κ. By mortifications:

Ex. Fasting, &c., &c.

(278.) OBS. 10. Human nature is also so constituted that what is treated *externally*, i. e. by words or behaviour, with levity and contempt, loses its force and impression *internally*; and *vice versâ*:

EX. The irreverent mention of God's name and every thing pertaining to it (ART. 264, 266.).

COR. Hence it behoves the *Societies for the Propagation of the Gospel in Foreign Parts*, to press on the Authorities the preference of those who profess the *Christian* faith, *cæteris paribus*, to all offices in the *Colonies*—and in the *British territories in India*.

(279.) OBS. 11. If a man be not kept up by something visible and obvious to his senses; some outward public expression of worship; something to revive from time to time, and refresh the fading ideas of religion in his imagination, they will by degrees lose all their hold and all their effect.

COR. 1. Hence the custom of *Sabbath-breaking* is the beginning of ruin amongst the lower orders.

COR. 2. Hence the necessity of *associated circumstances* to engender, and when engendered, to establish *religious habits* (ART. 4.).

COR. 3. Hence the errors of the *Whig Administration* in Church matters.

(280.) OBS. 12. Religious services have no intrinsic value: it is their tendency alone to form the *habit* of the perfect love of God which makes them duties to Him.

COR. 1. Hence they vary as the individual.

COR. 2. Hence they vary as the resultant.

COR. 3. Hence the motive to performance.

(281.) OBS. 13. Trusting in external religious services and neglecting the internal obligations of virtue and *Morality*, is the great error into which mankind in all ages and countries of the world have been most apt to fall :

Ex. All constitutions of *Popery* tend to make religion consist in mechanical performances, and in outward ceremonies, in lieu of real innocence of life and substantial virtue—which is the very worst tendency they can have, because men naturally incline that way.

(282.) OBS. 14. Since the use of the external is solely to impress the internal influence, they must both be coincident :

Ex. The *external* influence of the painting and sculpture in *Popish* churches, and the *internal*, clash—the *image* is more operative than the *idea*.

COR. Hence the excess is as faulty as the total negligence :

Ex. The pomp of *Popery*.

(283.) OBS. 15. SUM. “ Whether therefore ye eat or drink, or whatsoever ye do, do all to the glory of God.”\* “ For it is God which worketh in you, both to will and to do of his good pleasure ” † (ART. 276.).

COR. SUM. Hence the true virtue is that which discards all considerations absolutely, and which retires from them all to the single internal purpose of pleasing God (ART. 25.).

(284.) OBS. 16. Habits are of two kinds :

1st. Of thinking.

2d. Of acting.

The *latter* proceed from the *former*; forasmuch as actions constantly follow the thoughts occurring (*Locke*, PAGE 56.).

COR. Hence *both* are coincident.

\* 1 Cor. x. 31.

† Phil. ii. 13.

(285.) OBS. 17. In *religious* language, the habit of *thinking* is called *faith*, and that of *acting*, *works*.

COR. 1. Hence faith and works are coexistent.

COR. 2. Hence the one is the certain evidence of the other.

COR. 3. Hence the Scripture apophthegm: "the just shall live by faith,"\* is founded in human nature (ART. 27.).

COR. 4. Hence good works are the proper test of the *right* faith.

(286.) OBS. 18. The *imperfect* faith is owing, not to erroneousness but faintness:

EX. *Quale per incertam lunam sub luce malignâ  
Est iter in sylvis, . . . . .*

Virgil.

LEMMA. Those things are easiest and best done, which are *oftenest* done:

EX. The spade and pickaxe may level the road, but it is the continual beating which lays it smooth and even.

COR. 1. Hence, historical evidence is the foundation; the resulting evidence, the completion: but *reiterated evidence*, the rivet of the belief of *Christianity*.

COR. 2. Hence, the grand strengthener of faith (and every other virtue), is *practice*.

(287.) OBS. 19. "Jesus said—I am the resurrection, and the life: he that believeth in me, though he were dead, yet shall he live: And whosoever liveth and believeth in me shall never die." †

COR. 1. Hence *faith in Christ* is the sole, necessary, and certain cause of human salvation.

COR. 2. Hence "O death, where is thy sting? O grave, where is thy victory?" ‡ (*Locke*, PAGE 217—220.).

\* Rom. i. 17.

† John, xi. 25, 26.

‡ 1 Cor. xv. 55.



## SECTION VI.

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### DUTIES TO OURSELVES.

(*Paley*, b. iv.)

(See RUTHERFORTH'S INSTITUTES, c. 10. § 9.)

(288.) DEF. Many of the *duties to ourselves* are included in those to God and to our neighbour, but besides those, there are *three* which particularly belong to ourselves, viz.:

- 1st. Temperance.
- 2d. Preservation of life.
- 3d. Self-defence.

#### TEMPERANCE.

(289.) DEF. *Temperance* is abstaining from such indulgences as impair our talents or employ our time improperly.

#### INDOLENCE.

(290.) Amongst all the *indulgences* abounding in the world, that of *indolence* is paramount—in *fact* it is the root whence every other indulgence originates (ART. 17.):

Ex. 1. Whence do men prefer the present *minimum* before the absent *maximum*?—because easier obtained.

Ex. 2. Wherefore do they continue in any habit of vice?—because it would cost pains to break it.

Ex. 3. In short, why is human nature disinclined to virtue at all?—because there is trouble in acquiring it.

(291.) The poet says :

. . . . . *labor omnia vincit*  
*Improbos* . . . . .

Virgil.

whence, whenever we are overcome it proceeds from the want of *application*, because were the object above our forces, failure would be no defect nor leave us in a worse plight towards another object.

(292.) DEF. *Indolence* is the rust of the soul, and is the very opposite of virtue and happiness.

(293.) DEF. *Application* is opposed to indolence, and is the preference of business to amusement. *Business* leads to some serious purpose: *amusement* consists in pastime. *Dissipation* is opposed to business, the tendency of which is to prevent a man from choosing or prosecuting such pursuits as would turn to his advantage.

### *Sobriety.*

(294.) DEF. *Sobriety* is the moderate use of food or the animal gratifications. *Sensuality* is opposed to sobriety, and its tendency is to promote habits of *indolence* and neglect of *application*. When sobriety is taken in a more confined sense, *drunkenness* is opposed to it—the origin and continuance of which, as well as of most vices of human life, may be deduced from *indolence*, as above. (ART. 290.).

### *Drunkenness.*

(*Paley*, b. iv. c. 2.)

(295.) The effects of *drunkenness* are evidently marks of God's displeasure :

Ex. 1. The *visible* effects are so *brutish*, that when they alone are considered, abstracted from those which

they most commonly produce, it is a matter of wonder, that it could ever be committed by that creature, whose pretended prerogative is *reason*.

EX. 2. *Bacchus nunquam in tabulis aut statuis ebrius effingitur, at soli Satyri; qua re nos dicere voluerunt antiqui, ebrios ipsam humanitatem exuisse\**.

(296.) *Casual* drunkenness incurs, in some degree, the crime and danger of *habitual* drunkenness.

(297.) The *criminality* of drunkenness may be inferred from the perniciousness of its consequences :

1st. By the sins it leads men into :

*Certainly :*

EX. By stimulating to carnal desire, &c.

*Probably :*

EX. By exciting anger, gasconade, &c.

2dly. By disqualifying us from being useful not only in the intervals of drunkenness, but reconciling us in time to indolence and neglect of application.

3dly. By the loss and disgrace to our families and friends.

4thly. By shortening life.

(298.) Drunkenness, like all other kinds of sensuality, is occasioned at first by habit, because desire returns at such seasons as it has been indulged.

Also, habits of drunkenness are continued to relieve the depression of spirits called "the horrors", which drunkards have in the intervals of sobriety.

(299.) Associated circumstances never fail to excite the habitual desire, whatever that be (*Locke, PAGE 47.*).

EX. 1. Thus the desire of food will associate itself with a particular hour of the day, and with persons, places, and objects of gratification; so that one becomes hungry rather according to the hour than the natural want.

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\* Burney—Obs. Med.

EX. 2. Thus the removal of the table-cloth and the appearance of the bottle excite the desire of wine after dinner.

COR. 1. Hence if the associated circumstances are interrupted, the desire is not excited, at least in so great a degree.

COR. 2. Hence the best and the only effectual means of breaking off the *habit of drunkenness*, and indeed *all* bad habits, is by resolutely changing the associated circumstances.

(300.) *Pueris vinum tanquam exquisitum aliquod datur, et in mentibus hominum insedit opinio vinum ad hilare convivium necessarium esse; hæc sunt ebrietatis incitamenta*\* :

EX. 1. . . . . και οινον επισχων,  
Πολλακι μοι κατεδευσας επι στηθεσσι χιτωνα,  
Οινου αποβλυζων εν νεπιειη αλεγεινῃ.

Homer.

EX. 2. The rule of good fellowship of *three times three* :

α. *Ternos ter cyathos* . . . . .

Horat.

β. . . . . τρις τρια.

Anac.

(301.) A drunkard must be insane: a person drunk (as vulgarly expressed), is the worse for liquor—no person was ever drunk but in some degree made a fool of himself:

EX. Every person recovering from a fit of drunkenness is conscious, when he comes to himself, of some impropriety or extravagance into which it has betrayed him; some folly or some outrage of which he is ashamed.

(302.) The apophthegm *in vino veritas* has some foundation in nature—a man's own character or his judg-

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\* Burney—Obs. Med.

ment of another's character, is for the most part exactly developed by drunkenness :

. . . . . *vino tortus* . . . .

Horat.

(303.) Drunkenness is repeatedly forbidden in *Christianity*\*. *St. Paul* says "be not drunk with wine, wherein is excess." *St. Paul* does not forbid wine; but being "drunken with wine, wherein is excess."

COR. Hence here is no unnecessary mortification or painful refusal of the satisfactions of life, but a reasonable precept entitling it to respect and obedience (ART. 33. *Cor.* 2.).

It prevailed amongst the *Heathens*; and seems to have been allowed by the *Stoics* :

Ex. *Caton* *ebrietas objecta est. At facilius efficiet, quisquis objecerit, hoc crimen honestum, quàm turpem Catonem* †.

However, since wine was generally mixed with water by the ancients, *brutish* drunkenness was perhaps rare :

Ex. Οἱ μὲν ἀρ' οἶνον ἐμισγοῦν ἐνὶ κρητήρῳ καὶ ὕδωρ.

Homer.

(304.) *Spiritûs fermentati, sive a vino, sive ex aliquo frumenti genere facti usus, sanis et valentibus nocet, et morborum diuturnorum toties causa est, ut amplius octavam partem eorum hominum, qui Londinii moriuntur, interimat* †.

(305.) *Query.* How far a drunken man is responsible for his actions ?

*Answer.* He is responsible for his actions in proportion to the probability of their happening, and therefore responsible for every action to which he knows drunkenness exposes him :

Ex. If a person is aware that when he is drunk he is

\* Rom. xiii. 13. 1 Cor. vi. 10. Eph. v. 18.

† Seneca—De Tranquill. c. ult.

‡ Burney—Med. Obs.

apt to quarrel, &c., with his friends or servants, and gets drunk and does so, he is as guilty as if he did it when sober.

COR. 1. Hence the crime of a drunken man is not in committing faults in a condition in which he cannot help it, but in knowingly and voluntarily bringing himself into such a condition.

COR. 2. Hence the crime of any action of a drunken man bears the same proportion to the crime of the like in a sober man, that the probability of its being the consequence of drunkenness bears to certainty.

(306.) By the *English* law, drunkenness is punishable with the penalty of 5s., or sitting six hours in the stocks if unable to pay the penalty; on a second offence, the offender may be bound in a recognizance of £10 with two sureties for good behaviour.

In *Greece* the punishment for any offence was double when committed by a drunken man.

In *Sicily* a man once drunk was incapable of giving evidence.

#### OF APPLICATION.

(307.) DEF. *Application* is the life of the soul: activity and engagement are the antecedents to human virtue and happiness.

#### *Despatch.*

(308.) DEF. *Despatch* implies putting an end to; *effectual* despatch a suitable end:

Despatch is the soul of application, and is attained:

1st. By proceeding calmly and advertently, i. e. without hurry or trepidation yet without intermission or sluggishness: and with consciousness:

EX. 1. A man, from the love of deferring every thing which requires serious attention, whiles away his time in trifles, and then is driven hard to despatch in a few minutes what might have been done easily in an hour.

EX. 2. Or from the aversion to application, wants to have the business over, and so makes extraordinary efforts, that he may come to the season of repose the sooner.

EX. 3. Or from the same cause, goes about the business in a slovenly manner and without consideration, which proves ineffectual, and so is forced to do it over again.

EX. 4. Lastly, from possessing habits of impatience and rashness, effectual despatch is impossible.

COR. 1. Hence the more haste the less speed.

COR. 2. Hence sloth is the child of idleness.

COR. 3. Hence lazy folks take most pains.

RULE :

RULE. To have (as the vulgar expression is) your ears and your eyes always about you.

(309.) SCHOL. 1. Continuity is more than strength: evenness and collectedness than violence or perturbation.

(310.) SCHOL. 2. Genuine industry never wishes to be idle, finding a satisfaction in the application equally as in the completion; therefore is ever attentive to what is feasible and fitting, and makes effectual despatch in all and every part.

2dly. By discarding little things, i. e. forming true valuations :

EX. *Cardinal Chigi*\* told *Cardinal de Retz*, that he had written three years with the same pen, and that it was an excellent good one still.

(311.) SCHOL. The height of ability consists in a thorough knowledge of the real value of things.

COR. 1. Those who apply themselves too much to little things, commonly become incapable of great ones.

COR. 2. A laborious application to little things which neither require nor deserve a moment's thought, lowers a

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\* Chesterfield—Lett. cxc.

man, who is thence considered (and not unjustly) incapable of business or despatch.

3dly. By choosing time :

EX. Thus an unseasonable motion is but beating the air.

COR. 1. Hence to choose time is to save time.

COR. 2. Hence "to every thing there is a season, and a time to every purpose under the heaven."\*

RULES :

RULE 1. To reserve time for the worthiest.

RULE 2. Not to put off till to-morrow what can be done to-day :

EX.

Procrastination is the thief of time.

*Young.*

(312.) SCHOL. Repetitions are commonly loss of time—but there is no such gain of time as to repeat often the state of the question (*respicere finem*), because it suppresses all superfluities.

4thly. By keeping close to the matter—not taking too much of it at once.

RULES :

RULE 1. To command and direct the attention to the present object—not to be doing one thing, and at the same time to be either thinking of another, or not thinking at all.

RULE 2. To have a steady and undissipated attention to *one* object—to do only *one* thing at a time :

EX. 1. *Quod nunc instat agamus* †.

EX. 2. . . . *hoc age.* . . . .

Horat.

\* Eccl. iii. 1.

† Bacon—De Augment. l. viii. c. 2.



5thly. By method and distribution :

Ex. *Divide et impera.*

RULE :

RULE. Probability is the guide of life.

6thly. By peace of mind.

RULES :

RULE 1. To submit our will to the Will of Heaven : but to submit desire to the control of our own will.

RULE 2. *Sequantur homines quæ in præstantia bona et justa sunt ; futuræ divinæ Providentiæ remittentes\** (Locke, PAGE 145.).

COR. 1. Hence under Providence, *inæstimabile bonum est suum fieri* †—to trust to ourselves, since what depends on our own activity, is much less precarious, than what we receive from other causes ; to depend as little as possible on others, all of whom have enough to do with themselves.

COR. 2. Hence never to repine at a thing we cannot help.

COR. 3. Hence equanimity and self-possession : unruffled by difficulties—untransported by allurements :

EX. 1. Not to be vexed when forced on a thing *against the grain* ; when interrupted or called away from a pursuit we are earnest upon.

EX. 2.

Collected in his strength, and like a rock  
Poised on his base. . . . .

*Dryden.*

COR. 4. Hence to lay our measures carefully for the morrow, but to take no thought for what their success shall be on the morrow—to be pleased with success when it comes, but not to expect it (ART. 273.).

\* Bacon—De Augment. l. vii. c. 2.

† Seneca—Epist. lxxv.

PRESERVATION OF LIFE ;  
SUICIDE.

(*Paley*, b. iv. c. 3.)

(See RUTHERFORTH'S INSTITUTES, c. 10. § 9.)

(313.) DEF. The reverse of the *preservation of life* is *suicide*.

(314.) To those who regard death as the termination of their being, the question of *suicide* becomes a mere computation of interest—according as the evils or the advantages of life shall appear to preponderate, a wise man will relinquish his existence or preserve it.

COR. 1. Hence where “life and immortality is brought to light, through the gospel,”\* there it is untenable.

COR. 2. Hence, from their *computation*, it prevailed amongst the *Heathens*, especially the *Stoics* :

EX. 1. *In quo plura sunt quæ secundum naturam sunt, hujus officium est in vitâ manere: in quo autem sunt plura contraria, aut fore videntur, hujus officium est e vitâ excedere* †.

EX. 2. *Mors omnium dolorum et solutio est et finis: ultra quam mala nostra non exeunt* ‡.

(315.) But to those who look to an after reckoning, it becomes a question of a very different nature—it is unlawful from:

The *Light of Nature*:

1st. Because the particular and general consequences are injurious:

EX. 1. The affliction and disgrace of *many* families and consternation of *all*.

\* 2 Tim. i. 10.

† Cicero—De Fin. l. iii. c. 18.

‡ Seneca—Ad Marciam, c. xix.

EX. 2. A person is obliged to certain duties, and therefore obliged to preserve the means of performing those duties.

2dly. Because it is a crime which, by its *nature*, can never be repented of, and in that case worse than the assassination of another.

(316.) OBJECTION. It has been objected that it is nowhere prohibited in *Revelation*.

ANSWER :

*α.* It is prohibited without doubt under the head of *murder* in the *6th Commandment*; and since the *Jews* in the time of *Christ*, seemed agreed to detest a self-murderer, and always treated his remains with the most savage indignities, any further prohibition might have been thought unnecessary—the public opinion in this instance being right, there needed no new lesson.

*β.* Life is spoken of in the Bible as an assigned race; and the wilful shortening of our life is contrary to that patience and resignation so often inculcated.

*γ.* The example of the *Apostles* themselves is an argument against suicide, because they never attempted it, though weary of life.

(317.) There are a few excuses made use of to extenuate the crime of suicide :

EXCUSE 1. That a man's life is his own.

ANSWER. It is certainly his own so far that another cannot take it from him, but not that he may do what he pleases with it.

EXC. 2. That when a man can expect to do no good to others and must live miserable to himself.

ANSW. But that is impossible if he do his duty, since the meanest person may be serviceable to society.

EXC. 3. But he says he owes no duties as he gives up the benefits.

ANSW. He certainly owes *duties to God*, and every good in his power to man for the benefits he has already received.

Exc. 4. When a man commits suicide to avoid an ignominious death.

ANSW. This very death is then the only recompense he can give to society.

(318.) *Query.* Since a man cannot give what he has not—if he has no right over his own life, how can he transfer that right to another? and how then can any State derive from any implied and social compact with its citizens, that right which it claims and exercises of punishing by death?

*Answer.* The State derives this right not from any secret or supposed consent of the subject, but immediately from the Will of God, i. e. from its tendency to promote the general happiness (ART. 34.).

(319.) Formerly by the *English* law, the punishment for self-destruction was ignominious burial in the highway, with a stake driven through the body; but the 4 Geo. IV. c. 32. allows interment in the church yard or burial ground of the parish, requiring, however, the omission of the funeral service—and that the interment shall be made within twenty-four hours from the finding of the inquisition, and take place between the hours of 9 and 12 at night.

(320.) But the law is defeated by the usual practice of juries, in cases of self-murder, viz: to bring in a verdict of *insanity*; judging, probably, that the act of self-destruction is such a strange anomaly in human conduct, as to form of itself unequivocal testimony of deranged or maddened intellect.

COR. Hence if the magistrate and juries would require the same proofs of insanity as they would if the deceased had committed murder on any other person, it would be more effectually prevented.

## SELF-DEFENCE.

(See RUTHERFORTH'S INSTITUTES, c. 16.)

(321.) The duty of *self-defence* is divided into *three* parts :

1st. The defence of yourself by extreme violence.

2d. ————— by litigation.

3d. Resentment.

(322.) LEMMA. The *forgiveness of injuries* is required :

1st. By the *Light of Nature* :

$\alpha$ . From its importance, i. e. its utility to mankind :

EX. The duties of self-defence, for the most part, are owing to the want of it.

$\beta$ . From its difficulty, i. e. its greater value :

EX. 1. When a man receives an injury or affront, he is naturally set on fire by it—he considers constantly how to be revenged on his enemy and make him repent it.

EX. 2. The *Law of Reputation* is likely to reproach a man as mean spirited and cowardly for sitting down under an injury or affront, and tamely forgiving the author of it (ART. 3.).

EXCEPTION. The *Law of Reputation*, itself, is sometimes put to a stand :

EX. At the trial of *King Charles I.*, one of the bystanders spat in his face, and he without speaking, or even looking at the offender, calmly wiped his cheek with a handkerchief.

2dly. By *Revelation* :

EX. “—if ye forgive not men their trespasses, neither will your Father forgive your trespasses.” \*

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\* Matt. vi. 15.

“Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you and persecute you.” \*

COR. Hence from *Revelation* will follow the *humbleness of mind*:

EX. “And whosoever shall exalt himself, shall be abased; and he that shall humble himself, shall be exalted.” † “—be clothed with humility: for God resisteth the proud, and giveth grace to the humble.” ‡

COR. Hence pride is the adversary of religion, and humility the temper for it—the antipodes can hardly be wider apart than religion and:

Pomp, pride, and circumstance of glorious war.

*Shakespeare.*

(323.) The forgiveness of injuries § and the humbleness of mind || are both enforced as *prominent* duties in *Christianity*; *super-enforced* by *Christ's* ¶ example; and described by him \*\* in one of the finest parables extant in any language (ART. 33. *Cor.* 2.).

COR. 1. Hence, from their difficulty and disinterestedness, these duties are amongst the greatest proofs of religious principles.

COR. 2. Hence their *prominent* enforcement by *Christ* and his *Apostles*.

COR. 3. Hence, and from their *novelty*, there are more quotations in the *Apostolical Fathers* of texts on these duties than on any other. The sayings had struck them.

\* Matt. v. 44.

† Matt. xxiii. 12.

‡ 1 Pet. v. 5.

§ Matt. v. 7; vi. 14, 15; xviii. 22. 35. Luke, xvii. 3, 4. Rom. xii. 19, 20. Eph. iv. 32.

|| Matt. v. 3. Luke, xviii. 13, 14. Rom. xii. 16. Col. iii. 12. James, iv. 6.

¶ Luke, xxiii. 34. Matt. xi. 29. John, xiii. 12—17. Phil. ii. 3—11.

\*\* Matt. xviii. 23—35.

(324.) LEMMA. When estimating the writings of the *Heathen* moralists, the distinction of time is to be *pre-observed*, *viz.*: whether the writings were anterior or posterior to the coming of the *Christ*:

*Anterior*:

The forgiveness of injuries and the humbleness of mind were at this period generally understood in an ill sense amongst the *Heathens*, especially the *Stoics*:

EX. 1. *Cicero*\* declares: *sic ulciscar facinora singula quemadmodum à quibusque sum provocatus.*

EX. 2. *Seneca*† says: *sapiens cum diis ex pari vivit.*

*Posterior*:

Both these virtues were now enforced amongst them:

EX. *Epictetus* and *Marcus Antoninus* have given excellent lessons on both these virtues, but their several writings were posterior to the coming of the *Christ*, i. e. after *Christianity* had in some degree operated on the public opinion.

COR. The better morality at this period with regard to these peculiar virtues, evidences the truth of Ecclesiastical history, since the practice of these virtues by the *early Christians* will alone account for the change—the heroic benevolence, the difficulty and novelty of these virtues would operate earliest and pre-eminently on the public opinion.

(The *Heathens* did not much concern themselves about *Morality*: the *Priests* said little of virtue and future happiness—the *Philosophers* still less of the Will of God (ART. 32.).

COR. Hence their defective *Morality*.)

\* Ad Attic.

† Epist. lix.

(325.) SCHOL. 1. These virtues are connected reciprocally :

EX. Ου γαρ τιμωρητικος ὁ πρᾶος ἀλλὰ μᾶλλον συγγνωμονικος\*.

(326.) SCHOL. 2. Of all human absurdities those of irreconcilableness and pride are the greatest : imagine human frailty, *vindictive* and *arrogant*—to be itself a suppliant to the one common Father of all, and a greater instance of absurdity can hardly be imagined.

#### EXTREME VIOLENCE.

(327.) DEF. By *extreme violence* casuists generally mean the *taking away the life of another*.

(328.) Extreme violence is lawful for the preservation of life, whether the danger be by a voluntary or involuntary attack :

*Voluntary :*

EX. Against robbers.

*Involuntary :*

EX. Against madmen ; somnambulists.

It is also lawful against felons and in the execution of the Law when obstructed :

EX. Riot Act.

(329.) There are crimes which may here be considered :

1st. Manslaughter—without malice prepense.

2dly. Murder—with malice prepense.

*Manslaughter*, by the *English* law, may either be *voluntary* on a sudden heat of passion, or *involuntary* in consequence of an unlawful action ; in which latter case it is punished the same as murder.

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\* Aristotle—Ethic. ad Nicom.



## LITIGATION.

(Paley, b. iii. pt. 2. c. 10.)

(330.) *Litigation* is used :

1st. In the defence of a disputed right.

2dly. To prevent further injuries.

OBJECTION. It is objected by some that from Matt. v. *all* litigation is forbidden in *Christianity*.

ANSWER. The instances in Matt. v. only relate to small injuries, for *Christians* are not forbidden appeals to the Law ; and indeed were such the case the *good* men would be subject to the *bad* :

EX. 1. Matt. v. 39., μη αντιστηναι τῷ πονηρῷ—*that ye set not yourselves against an evil or injurious person, i. e.* that we should submit to and acquiesce under small injuries rather than revenge them or retaliate on the adversary.

EX. 2. *Christ's*\* own conduct shows that the instance in Matt. v. 39 : “whosoever shall smite thee on thy right cheek, turn to him the other also,” is not to be understood *literally*, for when he was brought before the High Priest the very insult, viz. a *blow*, was offered to him ; and he gave the offender a dignified reproof.

## RULES :

RULE 1. A man is bound to consult the most peaceful way to obtain his right.

RULE 2. He is bound not to prolong a suit by appeals, knowing equity to be against him ; nor to prolong it to tire a poor adversary by expense.

RULE 3. Not to endeavour to influence the evidence, nor to conceal any thing which may make against him.

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\* John, xviii. 22, 23.

(331.) We may here inquire into the character of an *informer*, which is justly odious, except when he informs against a person through ignorance or want of consideration, from which no immoderate harm can accrue to society, and this is not like informing for the sake of a reward.

(332.) But this character is unreasonably odious *when* the offence is prejudicial to society :

*α.* An honest man in this case will either not fear the imputation or give up his share of the reward.

*β.* The duty of those persons to whom information is given will be, not to prosecute when the injury is small and not likely to be expected : or when the punishment is too severe for the offence. He should only prosecute when the ends of punishment will be answered.

(333.) The ends of punishment are :

*Primary :*

To disable the criminal.

*Secondary :*

*α.* To amend him.

*β.* To deter others.

(334.) *Christianity*\* forbids litigation when undertaken for frivolous rights; where no purpose of public good is answered; or where forbearance is not likely to draw on a repetition (ART. 33. *Cor.* 2.).

#### RESENTMENT.

(*Paley*, b. iii. pt. 2. c. 6.)

(See RUTHERFORTH'S INSTITUTES, c. 16. § 8.)

(335.) DEF. *Resentment* is doing harm to another per-

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\* 1 Cor. vi. 1—8.

son as a punishment for injuries received: and it is allowed by the *law of nature* when it is justifiable as a punishment, but forbidden when the punishment is more than adequate to the offence.

COR. Hence duelling is forbidden by the *law of nature*, because not justifiable as a punishment.

(336.) *Duels* would be best avoided by inflicting great punishments on the insults which occasion them; and men who have already proved their courage, may decline a duel without the imputation of cowardice.

Duelling is less criminal than assassination, because not done in malice: but it is an error to infer that it prevents *assassination*:

EX. Assassination was more frequent when *knight errantry* was at its height than at present.

(337.) It is forbidden in Scripture\* under murder and revenge (ART. 33. *Cor.* 2.).

(338.) The word *honour* is defined differently by *moral* writers:

EX. 1. By *Grotius* †: *honor est opinio de excellentia*.

This *definition* is imperfect, since it does not note whether the opinion relate to ourselves or to others. If to *ourselves*, it is imperfect, because our opinion may be wrong founded—if to *others*, it is imperfect, because it cannot be called a principle of action to influence our conduct.

EX. 2. By *Rutherford* ‡ and *Paley* § “the sense which a man has of the esteem and regard of mankind.”

(339.) DEF. The proper definition of honour seems to be: *a sense of Reputation*.

\* Matt. v. 39.

‡ Instit. c. xvi. § 8.

† De Jure, l. ii. c. 1. § 10.

§ Serm. xlviii.

COR. Hence what is the sentiment of the bulk of mankind, is supposed to be a proper rule of action—though it be not a demonstrative, must be allowed to be at least a probable standard of what is right and virtuous.

(340.) The rule of reputation is recognised in *Christianity*\* (ART. 33. *Cor.* 2.).

(341.) Mistakes of honour are either mistaking the standard or misapplying it.

*Mistaking:*

Ex. When directed by the opinion of a few.

*Misapplying:*

Ex. When an action is only considered in a partial view.

(342.) There is mistake of honour when the standard is neither mistaken nor misapplied:

Ex. When courage and honour are reckoned the same thing.

Courage implies a contempt of danger—but men of courage are not always men of honour; yet men of honour are always men of courage.

The former have this advantage on their side, that no prudent man will pretend to call their honour into question.

(343.) The *thirst for fame* is a partial application of the true standard:

Ex. *Query.* Whether the desire of having a man's name shine in history be really a *lasting* or only a present gratification?

*Answer.* There is no probable assurance, that a man will know a hundred years hence, or will feel any pleasure

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\* Phil. iv. 8.

therein if he does know, what is then said of him : whence he will receive no other gratification from *fame* than what arises from its contemplation *durante vitâ*.

## CONCLUSION.

(344.) SUM. *Verba duo hæc dicebat* (Epictetus \*):

ΑΝΕΧΟΥ ΚΑΙ ΑΠΕΧΟΥ.

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\* Aulus Gellius—l. xvii. c. 19.

THE END.















